

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

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Reg. No.: 14-009687
Issue No.: 2001
Case No.: ██████████
Hearing Date: October 20, 2014
County: WAYNE-DISTRICT 57
(CONNER)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a three-way telephone hearing was held on October 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR), ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Manager.

ISSUE

Did the Department properly activate Claimant's Medical Assistance (MA) coverage for August 2012 to October 2012?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November 30, 2012, Claimant's Authorized Representative (AR) (who is also the AHR – hereinafter referred to as "AHR") applied for MA disability benefits on behalf of the Claimant, retroactive to August 2012. See Exhibit 1, pp. 11-19.
2. On February 16, 2013, the Medical Review Team (MRT) determined that Claimant was not disabled. See Exhibit 1, p. 4.
3. On May 7, 2013, Claimant and/or the AHR filed a previous hearing request, protesting the MRT determination. See Exhibit 1, p. 4.

4. On December 26, 2013, the Administrative Law Judge (ALJ) sent a Decision and Order (D&O) in which it found the Claimant to be disabled for purposes of the MA-P and State Disability Assistance (SDA) benefit programs. See Exhibit 1, p. 10 (See Reg. #2013-47856). See Exhibit 1, p. 10. The D&O ordered the Department to initiate processing of the November 30, 2012 application to determine if all non-medical criteria were met and inform Claimant of the determination in accordance with Department policy. See Exhibit 1, p. 10.
5. On February 13, 2014, the Department sent Claimant a Notice of Case Action notifying Claimant that her MA benefits were approved for November 1, 2012, ongoing. See Exhibit 1, pp. 25-29. However, the Department failed to send the notice to the AHR and also failed to address Claimant's retroactive period.
6. On July 30, 2014, Claimant's AHR filed a hearing request, protesting the Department's failure to process the D&O from the previous hearing. See Exhibit 1, p. 2.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

All hearing decisions must be recorded in the system, on the Hearing Restore Benefits screen. BAM 600 (July 2013), p. 38. Some hearing decisions require implementation by the local office. BAM 600, p. 38. The Department implements a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 38. The Department completes and sends the DHS-1843, Administrative Hearing Order Certification, to MAHS to certify implementation and place a copy of the form in the case file. BAM 600, p. 39.

In this case, on November 30, 2012, Claimant's AHR applied for MA disability benefits on behalf of the Claimant, retroactive to August 2012. See Exhibit 1, pp. 11-19. On February 16, 2013, the MRT determined that Claimant was not disabled. See Exhibit 1, p. 4. On May 7, 2013, the Claimant and/or AHR filed a previous hearing request, protesting the MRT determination. See Exhibit 1, p. 4.

On December 26, 2013, the ALJ sent a D&O in which it found the Claimant to be disabled for purposes of the MA-P and SDA benefit programs. See Exhibit 1, p. 10 (See Reg. #2013-47856). See Exhibit 1, p. 10. The D&O ordered the Department to initiate processing of the November 30, 2012 application to determine if all non-medical criteria were met and inform Claimant of the determination in accordance with Department policy. See Exhibit 1, p. 10.

On February 13, 2014, the Department sent Claimant a Notice of Case Action notifying Claimant that her MA benefits were approved for November 1, 2012, ongoing. See Exhibit 1, pp. 25-29. However, the Department failed to send the notice to the AHR and also failed to address Claimant's retroactive period (August 2012 to October 2012). The AHR testified that it was seeking coverage for August 2012.

On July 30, 2014, Claimant's AHR filed a hearing request, protesting the Department's failure to process the D&O from the previous hearing. See Exhibit 1, p. 2.

At the hearing, the Department testified that Claimant's MA benefits were approved for November 2012, ongoing. However, the Department testified that it was unable to process the retroactive period. The Department testified that it has to obtain an exception from the DHS help desk in order to activate coverage due to the time period being greater than twelve months.

Additionally, the Department provided a remedy ticket submission form dated August 14, 2014, which stated to approve Claimant's retroactive MA disability for August 2012 to October 2012. See Exhibit 1, p. 35. However, the Department testified that it appears the remedy ticket was never submitted by the DHS supervisor. Moreover, the Department testified that it failed to send a twelve month billing exception for medical services.

Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110 (July 2013), p. 4. AR is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf. BAM 110, p. 9. The AR assumes all the responsibilities of a client. BAM 110, p. 9.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (October 2013), p. 14. The Department automatically sends a notice of case action, informing the client of the decision. BAM 105 (October 2013), p. 15. Moreover, if the group is ineligible or refuses to cooperate in the application process, the Department must certify the denial within the standard of promptness and also send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115 (July 2013), p. 23. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 23.

Also, enrolled providers are aware of the covered and excluded services available to MA recipients. BAM 402 (October 2013), p. 10. Providers must use MA billing procedures to obtain payment for services performed. BAM 402, p. 10. Billings should

be submitted within 12 months from the date of service. BAM 402, p. 10. Exceptions to the 12 month billing policy can be made if the delay is caused by agency error or as a result of a court or administrative hearing decision. BAM 402, p. 10. Form MSA-1038, Request for Exception to the Twelve Month Billing Limitation for Medical Services, is an internal document and must be completed by local office staff to begin the exception process. BAM 402, p. 10.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not activate Claimant's MA coverage for August 2012 to October 2012.

First, the Department failed to send Claimant's AHR the MA approval notice for the effective benefit period of November 1, 2012, ongoing, in accordance with Department policy. See BAM 105, p. 14; BAM 110, p. 9; and BAM 115, p. 23. Moreover, the Department also failed to address Claimant's MA eligibility for the retroactive period of August 2012 to October 2012. See BAM 105, p. 14 and BAM 115, p. 23.

Second, it was discovered that the Department failed to process a remedy ticket in order to activate Claimant's retroactive MA period of August 2012 to October 2012. The Department also testified that it failed to submit a twelve month billing exception for medical services. See BAM 402, p. 10. It should be noted that the Claimant's Eligibility Summary indicated MA coverage was authorized for November 1, 2012, ongoing. See Exhibit 1, pp. 30-34. As such, the Department will activate Claimant's MA coverage for August 2012 to October 2012 and allow the provider to bill for services rendered from August 1, 2012, ongoing, in accordance with Department policy. See BAM 105, p. 14; BAM 110, p. 9; BAM 115, p. 23; and BAM 402, p. 10.

DECISION AND ORDER


The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not activate Claimant's MA coverage for August 2012 to October 2012.

Accordingly, the Department's MA decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall activate Claimant's MA coverage for the time period of August 2012 to October 2012 (retroactive period) in accordance with Department policy;

2. The Department shall allow the provider to bill for services performed from August 1, 2012, ongoing, in accordance with Department policy; and
3. The Department shall notify Claimant/AHR in writing of its MA decision.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/22/2014**

Date Mailed: **10/22/2014**

EJF / cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

