

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-010335
Issue No.: 2000
Case No.: [REDACTED]
Hearing Date: October 9, 2014
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on October 9, 2014 from Warren, Michigan. Participants included the above-named Claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative (AHR). [REDACTED] Claimant's mother, testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Hearings Facilitator.

ISSUE

The issue is whether Claimant timely requested a hearing to dispute a denial of Medical Assistance (MA) eligibility.

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 [REDACTED], Claimant applied for MA benefits, including retroactive MA benefits from 10/2013.
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 8-9).
4. On [REDACTED], DHS denied Claimant's application for MA benefits and mailed a Benefit Notice (Exhibits 3-4) informing Claimant's AHR of the denial.

5. On [REDACTED], Claimant's AHR requested a hearing disputing the denial of MA benefits.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant's AHR requested a hearing to dispute a denial of MA benefits. Before a substantive analysis may occur, it must be determined whether a timely hearing request was filed. The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (7/2013), p. 5.

Claimant's AHR testified that the written notice of denial was received on [REDACTED]. Claimant's AHR's testimony implied that the clock does not begin to run on a hearing request submission until receipt of a written notice. Such an argument is contrary to DHS policy. DHS policy states the 90 day period begins "from the date of written notice". Nowhere is it implied that receipt of notice is relevant to the 90 day timeframe.

If it can be established that actual receipt of written notice was significantly delayed or did not occur, consideration may be given to interpreting other requirements within DHS policy. The alleged two week DHS delay in mailing is not so significant to justify any such exceptions. Claimant's AHR had ample time to submit a hearing request from the date of receipt even if there was a delay in mailing by the post office.

The evidence also did not justify finding that written notice was sent on any day other than [REDACTED]. DHS presented testimony from the specialist that mailed Claimant's written notice of denial to the AHR. The testifying specialist credibly stated that she prepares all correspondence for mailing on the date of mailing. She further testified that the DHS office business practice is to mail all correspondence within a day after letters are prepared for mailing.

Claimant's AHR presented a blank page (Exhibit 6) with a generic appearing date stamp of [REDACTED] to support the allegation that DHS mailed written notice several days after [REDACTED]. Claimant's AHR did not present a mailing envelope to verify a late postmark. Claimant's AHR did not present the actual written notice with a date stamp. A blank page with a date stamp of [REDACTED] was not persuasive evidence that the written notice date was later than [REDACTED].

Based on the presented evidence, it is found that Claimant's AHR failed to timely request a hearing concerning denial of Claimant's MA eligibility. Accordingly, Claimant's AHR's hearing request is dismissed.

The above finding would likely rankle any claimant. Two considerations may decrease Claimant's annoyance with the finding.

A detailed evaluation of disability was not undertaken due to the dismissal of the hearing request. Evidence of disability was presented in testimonial and documentary form. As a 47 year old male with a high school equivalent education, Claimant could essentially only be determined to be disabled if he was found incapable of performing any type of employment. An initial review of evidence was not supportive of such a finding.

Presented records verified that Claimant underwent open heart surgery. Claimant testified that he has some degree of memory loss, possibly related to losing oxygen during the surgery. The evidence (again, at cursory glance) was supportive that Claimant could perform sedentary or light employment of a simple and repetitive nature.

Most clients that pursue Medicaid benefits simultaneously pursue SSA disability benefits. If Claimant is found disabled by SSA, Claimant may be eligible for Medicaid back to 10/2013, the month of Medicaid benefits sought at the administrative hearing. Claimant testified that he was uncertain of the status of a SSA application. Thus, it cannot be determined whether Claimant could receive Medicaid benefits back to 10/2013 by virtue of a favorable SSA determination; it is a possibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant's AHR failed to timely request a hearing concerning MA eligibility from an application dated [REDACTED]. Claimant's hearing request is **DISMISSED**.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/31/2014**

Date Mailed: **10/31/2014**

CG / hw

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

CC:

