

**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.: 14-017234
Issue No.: 2001; 2004
Case No.: ██████████
Hearing Date: February 26, 2015
County: WAYNE-DISTRICT 76
(GRATIOT/SEVEN M)

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 February 26, 2015, 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 ██████████ Specialist.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) application based on disability dated December 3, 2013, retroactive to September 2013?

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 December 3, 2013, Claimant's authorized representative (AR – who is also the AHR in this case) applied for MA benefits based on disability on behalf of the Claimant, retroactive to September 2013. See Exhibit 1, p. 10.
2. On December 12, 2013, the Department sent Claimant's medical packet to the Medical Review Team. See Exhibit 1, pp. 13-149.
3. On or around January 24, 2014, MRT deferred Claimant's application for an exam. See Exhibit 1, pp. 12-13.

4. On February 6, 2014, the Department sent Claimant a Medical Appointment Confirmation Notice notifying Claimant of a scheduled exam on February 14, 2014. See Exhibit 1, p. 11. The Department failed to send the appointment notice to Claimant's AHR.
5. On February 14, 2014, Claimant failed to attend the scheduled medical appointment. See Exhibit 1, p. 11.
6. On February 14, 2014, the Department denied Claimant's application, but failed to provide evidence that it sent Claimant and the AHR a denial notice.
7. The AHR indicated that it never received any form of correspondence (i.e., Notice of Case Action) from the Department.
8. On November 20, 2014, Claimant's AHR filed a hearing request, protesting the Department's failure to process the MA/retro application. See Exhibit 1, pp. 2-6.

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.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (October 2013), p. 14.

Any person, regardless of age, or their authorized representative (AR) may apply for assistance. BAM 110 (July 2013), p. 4. An 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. AR's must give their name, address, and title or relationship to the client. BAM 110, p. 9. To establish the client's eligibility, they must be familiar enough with the circumstances to complete the application, answer interview questions, and collect needed verifications. BAM 110, p. 9.

The Department must register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19. See also Retro MA application, BAM 110, p. 4 and BAM 115 (July 2013), pp. 11-14.

The standard of promptness (SOP) begins the date the Department receives an application/filing form, with minimum required information. BAM 115, p. 15. For MA applications, the Department certifies the program approval or denial of the application within 45 days. BAM 115, p. 15. However, there are exceptions to these benefits programs for processing times, which are described as follows: 90 days for MA categories in which disability is an eligibility factor. BAM 115, pp. 15-16. The SOP can be extended 60 days from the date of deferral by the Medical Review Team. BAM 115, 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, p. 23. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 23.

Finally, the Department makes all arrangements on behalf of the client for a medical exam or other diagnostic tests requested by the MRT or Supplemental Security Income (SSI) advocate. BAM 815 (July 2013), p. 9. If necessary, contact the MRT or SSI advocate for specific providers enrolled in the program (for example physician, clinics, labs, etc.). BAM 815, p. 9. The Department uses the DHS-800, Medical Appointment Confirmation, to notify the client of a scheduled appointment. BAM 815, p. 9. The DHS-800 tells the client: (i) the Department will not pay for a missed appointment; (ii) to call the physician, in advance to reschedule if the client is unable to keep the appointment; and (iii) to call his specialist if assistance is needed in rescheduling the appointment. BAM 815, pp. 9-10.

In this case, Claimant had an AR (who is also the AHR in this case) present at the time the application was submitted. See Exhibit 1, p. 10. Policy indicates the AR assumes all the responsibilities of a client. BAM 110, p. 9. Because Claimant had an AR, this would mean that the Department should send all correspondence to the AR (i.e., medical appointments, verification checklists, etc...). However, Claimant's AHR indicated that they received no form of correspondence from the Department. The Department indicated that Claimant's application was denied for failure to attend the scheduled appointment, but the evidence indicated that it failed to send the medical appointment notice to the AHR. See Exhibit 1, p. 11. Moreover, the Department indicated that it denied the application on February 14, 2014; again, though, it did not provide any evidence that a denial notice was sent either to Claimant or the AHR. By the end of hearing, the Department acknowledged that it erred in processing Claimant's application for failure to send the medical appointment notice to the AHR. Furthermore, the Department acknowledged that it would re-register and reprocess the MA application.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it improperly processed Claimant's MA application based on disability dated December 3, 2013, retroactive to September 2013. BAM 105, p. 14; BAM 110, pp. 4, 9, and 19; BAM 115, pp. 15-23; and BAM 815, pp. 9-10. Thus, the Department will re-register and reprocess Claimant's MA application dated December 3, 2013, retroactive to September 2013, in accordance with Department policy.


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 did not act in accordance with Department policy when it improperly processed Claimant's MA application based on disability dated December 3, 2013, retroactive to September 2013.

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. Initiate re-registration and reprocessing of Claimant's MA application based on disability dated December 3, 2013, retroactive to September 2013;
2. Begin issuing supplements to Claimant for any MA benefits Claimant was eligible to receive but did not; and
3. Begin notifying Claimant and Claimant's AHR of its MA decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/26/2015**

Date Mailed: **2/27/2015**

EJF/tm

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 48909-8139

CC:

[REDACTED]