

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-017606
Issue No.: 2004
Case No.: ██████████
Hearing Date: March 5, 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 telephone hearing was held on March 5, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's/additional household member's ██████████) Authorized Hearing Representative (AHR), ██████████, Hearings Representative from ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Claimant's additional household member's (hereinafter referred to as "household member") Medical Assistance (MA) application dated October 21, 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 October 21, 2013, the authorized representative (AR – who is also the AHR in this case) applied for MA benefits on behalf of the household member. See Exhibit A, pp. 1-34.
2. At the time of application, the household member had active MA – Adult Program Medical (AMP) coverage. See Exhibit 1, pp. 8. It should be noted that the household member's Eligibility Summary indicated coverage for MA – Healthy Michigan Plan (HMP); however, this is improper. See Exhibit 1, p. 8. The proper coverage was MA - AMP as HMP did not exist in October 2013.

3. On November 15, 2013, the Department sent Claimant a Notice of Case Action (case action) notifying the household member that his MA – Low Income Families (LIF) coverage continued for December 1, 2013, ongoing. See Exhibit 1, pp. 33-39. However, the case action indicated that the household member was not eligible for coverage for November 1, 2013, to November 30, 2013, because he has active coverage in another case. See Exhibit 1, p. 34. The case action failed to address whether the household member was eligible for coverage for October 1, 2013, to October 31, 2013 (month of application).
4. On October 13, 2014, Claimant's AHR filed a hearing request, protesting the Department's failure to process the Medical Assistance (MA) application. See Exhibit 1, pp. 2-3.

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.

Preliminary matters

First, on December 17, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant/AHR a letter indicating that the hearing request may not be timely. Therefore, this Administrative Law Judge (ALJ) will consider as the first issue of this hearing whether the AHR's hearing request is timely.

At the hearing, it appeared that the AHR faxed the hearing request originally to MAHS on May 30, 2014 and not to the Department. See Exhibit 1, p. 3. Then, at some point, MAHS appeared to forward the hearing request to the Department, which resulted in a hearing request dated October 13, 2014. On November 15, 2013, the Department sent Claimant a case action notifying the household member that his MA – LIF coverage continued for December 1, 2013, ongoing. See Exhibit 1, pp. 33-39. Moreover, the case action indicated that the household member was not eligible for coverage for November 1, 2013, to November 30, 2013 because he has active coverage in another case. See Exhibit 1, p. 34. However, the case action failed to address whether the

household member was eligible for coverage for October 1, 2013, to October 31, 2013 (month of application).

Policy states that the client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (July 2013, July 2014, and October 2014), p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6.

Based on the foregoing information and evidence, this ALJ finds that the hearing request is timely. The hearing request appeal is based on the Department's failure to process the October 2013 application because the case action dated November 15, 2013, never addressed the household member's eligibility for this month. See Exhibit 1, pp. 2 and 33-39. In this instance, there is no 90 day deadline to submit the request for hearing as the written notice of case action never addressed the application month. MAHS may grant a hearing when there is a delay of any action beyond standards of promptness. See BAM 600, p. 4. Based on this policy, Claimant's hearing request is timely as it properly argues the Department failure to process the October 2013 application. See BAM 600, pp. 4-6.

Second, the Department also presented two hearing request withdrawals signed by the Claimant on November 18, 2014. See Exhibit 1, pp. 46-47. When the client's AHR requested a hearing on behalf of the client, the client may not withdraw the hearing request without first providing the department with a written, signed notice stating they wish to revoke the AHR's authorization to represent the client. See BAM 600, p. 26. The authorization to represent must be revoked by the client before the client signs the hearing request withdrawal. See BAM 600, p. 26. In this case, Claimant/household member had an AHR and there was no evidence presented that Claimant/household revoked the AHR's authorization to represent them in writing. As such, the hearing proceeded accordingly.

MA application

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (October 2013), p. 14. Any person, regardless of age, or his authorized representative (AR) may apply for assistance. BAM 110 (July 2013), p. 4. An application or filing form, with the minimum information, must be registered by the Department unless the client is already active for that program(s). BAM 110, p. 7. 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.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (July 2013), 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. 16.

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.

In this case, the AHR argued that the Department failed to process the household member's MA application dated October 21, 2013. In response, the Department argued that it did properly process the application. The evidence indicated that the Department only partially processed the MA application dated October 21, 2013. The Department presented a case action dated November 15, 2013; which only addressed the household member's MA eligibility for November 1, 2013, ongoing. See Exhibit 1, pp. 33-39. However, the case action failed to address the household member's MA eligibility for October 1, 2013, to October 31, 2013 (month of application). Because the case action does not address the household member's MA eligibility for October 2013, the Department failed to satisfy its burden of showing that it properly processed the MA application in accordance with Department policy. See BAM 105, p. 14; BAM 110, pp. 4, 7, and 19; and BAM 115, pp. 15-23. Therefore, the Department will re-register and reprocess the household member's MA application 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 failed to satisfy its burden of showing that it properly processed the household member's MA application dated October 21, 2013, in accordance with Department policy.

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 the household member's MA application dated October 21, 2013;
2. Begin issuing supplements to the household member for any MA benefits he was eligible to receive but did not from October 1, 2013, ongoing; and

3. Begin notifying Claimant/household member/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: **3/6/2015**

Date Mailed: **3/6/2015**

LMF/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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]