

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

IN THE MATTER OF:

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██████████████████
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Reg. No.: 2014-24758
Issue No(s): 2002
Case No.: ██████████
Hearing Date: April 2, 2014
County: Wayne (82-19)

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 April 2, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████
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ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) application effective October 1, 2013, ongoing?

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 16, 2013, Claimant and/or her authorized representative (AR) applied for MA benefits. See Exhibit 1.
2. On October 23, 2013, the Department sent a Verification Checklist (VCL) to Claimant and the AR and the verification documents were due back by November 4, 2013. See Exhibit 1.
3. On November 4, 2013, Claimant sent via fax the requested verifications to the Department. See Exhibit A.

4. On November 7, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA application was denied effective October 1, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.
5. On November 11, 2013, Claimant again sent via fax the requested verifications to the Department. See Exhibit A.
6. On January 29, 2014, Claimant filed a hearing request, protesting the MA denial.

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 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.

Preliminary Matter

As a preliminary matter, it was discovered during the hearing that Claimant had an AR who applied for MA assistance on her behalf. See BAM 110 (July 2013), p. 9. However, an AR is not the same as an Authorized Hearings Representative (AHR). BAM 110, p. 9. The appointment of an AHR must be made in writing. BAM 600 (March 2014), p. 2. The AHR has the right to request a hearing. See BAM 600, p. 2. However, there was no evidence presented at the hearing that an AHR was appointed. Moreover, a review of the Michigan Administrative Hearing System (MAHS) records did not discover any AHR appointed for Claimant. As such, the hearing proceeded with only Claimant and the Department present. BAM 600, pp. 2-3.

MA Application

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130 (July 2013), p. 6. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit up to three times. BAM 130, p. 6. For electronically transmitted

verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6.

The Department sends a case action notice when: the client indicates refusal to provide a verification or the time period given has elapsed. BAM 130, p. 7. Only adequate notice is required for an application denial. BAM 130, p. 7.

In this case, on October 16, 2013, Claimant and/or the AR applied for MA benefits. See Exhibit 1. On October 23, 2013, the Department sent a VCL to Claimant and the AR and the verification documents were due back by November 4, 2013. See Exhibit 1. The Department testified that it did not receive the requested verifications before the due date. Thus, on November 7, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA application was denied effective October 1, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1. Subsequent to the denial notice, on November 11, 2013, the Department testified that it first received Claimant's requested verifications via fax.

At the hearing, Claimant testified that, upon receipt of the VCL, she submitted the requested verifications via fax twice on November 4, 2013. Claimant also presented a fax activity report in which it indicated a fax sent on November 4. See Exhibit A. The activity report also indicated a fax sent on November 11; the Department confirmed it did receive the requested verifications for the first time on November 11. See Exhibit A. Claimant also provided a copy of the documents that she alleged to have faxed on November 4 and 11, 2013. See Exhibit A. It should be noted that the transmission date for the fax located on the document was not legible. See Exhibit A. It should also be noted that Claimant testified that she contacted the Department without any response.

Nevertheless, based on the foregoing information and evidence, the Department improperly denied Claimant's MA application effective October 1, 2013, ongoing. Even though the transmission date for the fax located on the documents was not legible, Claimant provided credible evidence via the activity report that she submitted the verifications on the due date. See Exhibit A. A review of the fax activity report indicated a fax was sent on the due date. See Exhibit A. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6. As such, the date of the transmission was November 4, which was the last day to submit the verifications. See Exhibit 1. The evidence presented demonstrated that Claimant submitted the requested verifications on the due date. Because Claimant submitted the verifications on the due date (November 4, 2013), the Department did not act in accordance with Department policy when it improperly denied her MA application effective October 1, 2013, ongoing. BAM 105, p. 6, and BAM 130, pp. 6-7.

DECISION AND ORDER

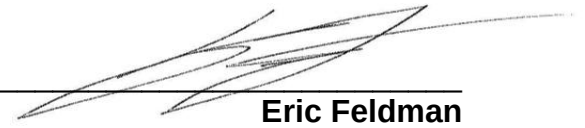
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not

act in accordance with Department policy when it improperly denied Claimants MA application effective October 1, 2013, ongoing.

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. Reregister the MA application dated October 16, 2013;
2. Begin reprocessing the application/recalculating the MA budget for October 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not from October 1, 2013, ongoing; and
4. Notify Claimant and Claimant's AR in writing of its MA decision in accordance with Department policy.



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

Date Signed: April 10, 2014

Date Mailed: April 14, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

EJF/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]