

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

IN THE MATTER OF:

██████████
██████████
██████████████████

Reg. No.: 2014-25227
Issue No(s): 2007
Case No.: ██████████
Hearing Date: April 2, 2014
County: Wayne (17)

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 April 2, 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 ██████████, Medical Contact Worker.

ISSUE

Did the Department properly implement and certify a previous Decision and Order (D&O) regarding an administrative hearing held on July 29, 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 February 2, 2012, Claimant applied for Medical Assistance (MA) benefits with retroactive coverage to January 2012.
2. On July 29, 2013, the AHR appeared at a previous administrative hearing (Registration #2013-47402), in which the AHR disputed the Department's failure to process Claimant's application. See Exhibit A.
3. On August 6, 2013, the Administrative Law Judge (ALJ) sent a D&O in which it ordered the Department to reregister Claimant's application (dated February 2, 2012) with retroactive coverage to January 2012; begin reprocessing the

application; provide Claimant with MA coverage he was eligible to receive, if any, from January 1, 2012, ongoing; notify the AHR in writing of its decision; and comply with each of the preceding steps in accordance with Department policy (Reg #2013-47402). See Exhibit A.

4. On an unspecified date, Claimant's application was sent to the Medical Review Team (MRT) and it was denied.
5. The Department failed to send Claimant's AHR a denial notice.
6. On January 29, 2014, Claimant's AHR filed a hearing request, protesting the Department's failure to process the D&O from the previous hearing regarding the Claimant's MA application/retro request. See Exhibit A.

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.

In this case, on February 2, 2012, Claimant applied for MA benefits with retroactive coverage to January 2012. On July 29, 2013, the AHR appeared at a previous administrative hearing (Registration #2013-47402), in which the AHR disputed the Department's failure to process Claimant's application. See Exhibit A. On August 6, 2013, the ALJ sent a D&O in which it ordered the Department to reregister Claimant's application (dated February 2, 2012) with retroactive coverage to January 2012; begin reprocessing the application; provide Claimant with MA coverage he was eligible to receive, if any, from January 1, 2012, ongoing; notify the AHR in writing of its decision; and comply with each of the preceding steps in accordance with Department policy (Reg #2013-47402). See Exhibit A. On January 29, 2014, the AHR filed a hearing request, protesting the Department's failure to process the D&O from the previous hearing regarding the Claimant's MA application/retro request. See Exhibit A. Moreover, Claimant's AHR testified that it still has not received an Application Eligibility Notice. See Exhibit A.

At the hearing, the Department testified that it did comply with the D&O sent on August 6, 2013. Based on the Department's testimony, it appeared to indicate that it reregistered and processed the MA application/retro request per the D&O because the Department testified that Claimant's application was sent to the MRT and it was denied.

However, the Department testified that a denial notice was not sent to Claimant's AHR. See BAM 115 (December 2011), p. 18.

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 the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, p. 39. Complete and send 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.

Based on the foregoing information and evidence, it is determined that the Department failed to implement and certify the D&O from the previous administrative hearing dated July 29, 2013 (Reg. #2013-47402). The Department testified that it complied with the D&O; however, it was unable to provide evidence of the MRT denial date. Moreover, the Department testified that a denial notice was not sent to Claimant's AHR. As such, there was insufficient evidence presented that the Department properly implemented and certified the D&O sent on August 6, 2013. Therefore, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it failed to properly implement and certify the D&O sent on August 6, 2013 from the previous administrative hearing (Reg. #2013-47402). BAM 600, pp. 38-39.

DECISION AND ORDER

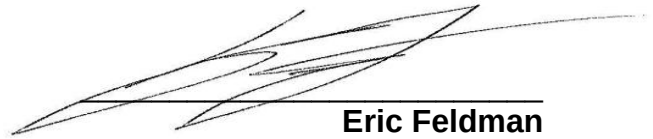
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to properly implement and certify the D&O sent on August 6, 2013 from the previous administrative hearing (Reg. #2013-47402). BAM 600, pp. 38-39.

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. Implement and certify the D&O mailed on August 6, 2013 from the previous administrative hearing (Reg. #2013-47402) in accordance with Department policy;
2. Reregister Claimant's MA application (dated February 2, 2012) with retroactive coverage to January 2012;
3. Begin reprocessing the application;

4. Provide Claimant with MA coverage he was eligible to receive, if any, from January 1, 2012, ongoing;
5. Notify the AHR in writing of its decision; and
6. Comply with each of the preceding steps in accordance with Department policy.



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

Date Signed: April 9, 2014

Date Mailed: April 9, 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

2014-25227/EJF

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]