

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-25633
Issue No.: 2004
Case No.: [REDACTED]
Hearing Date: April 29, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 29, 2014 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Authorized Hearing Representative (AHR) from [REDACTED]). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Medical Contact Worker).

ISSUE

Did the Department properly process Claimant's application for Medical Assistance (MA) and for Retroactive MA?

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 September 17, 2012, Claimant applied for MA benefits and sought retroactive coverage to June 2012 covering the retro months of June, July and August, 2012.
2. The Department failed to process Claimant's application.
3. On April 3, 2013, Claimant's AHR requested a hearing to compel the Department to process the September 17, 2012 application.
4. An administrative hearing took place on July 18, 2013.
5. On August 6, 2013, Administrative Law Judge (ALJ) [REDACTED] issued a Settlement Order where the Department agreed to re-register and to process the September 17, 2014 MA application for the retroactive coverage for June, July and August, 2012.

6. Claimant's AHR requested a hearing again on January 28, 2014 to compel the Department to comply with the Settlement Order and to process the MA application.

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.

For all programs, an application or filing form, with the minimum information, must be registered on Bridges **unless** the client is already active for that program(s). BAM 110, p 7 (1-1-2014).

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. **Exception #1:** For **FAP**, the SOP begins when the **correct** local office receives it; see BAM 110, WHERE TO APPLY/PROCESS APPLICATIONS, FAP ONLY. **Exception #2:** For **FAP**, when a person applies for SSI and FAP before being released from a medical institution, the SOP begins on the applicant's date of release. See BAM 105, for the minimum required information for filing. BAM 115, p 14 (3-1-2014).

Process applications and requests for member adds as quickly as possible, with priority to the earliest application date. For MA, certify program approval or denial of the application within 45 days. BAM 115, pp 15 (3-1-2014).

Here, the Department concedes that it failed to timely and properly process Claimant's September 17, 2012 application for MA with retroactive coverage for June, July and August, 2012. Further, there is no dispute that the Department failed to comply with [REDACTED] Settlement Order.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department clearly failed to comply with BAM 115. The Department shall promptly re-register and reprocess Claimant's MA application dated September 17, 2012 and shall process Claimant's eligibility for retroactive MA for June, July and August, 2012.

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 failed to process Claimant's MA application (including retroactive MA) dated September 17, 2012.

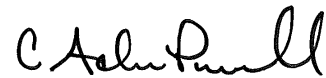
DECISION AND ORDER

Accordingly, the Department's 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. Re-register and reprocess Claimant's September 17, 2012 application for MA including retroactive months of June, July and August, 2012.
2. If necessary and required the Department shall request a DTMB remedy ticket to process the instant Order.
3. If possible, the Department shall take steps to see that the above remedy ticket is processed on an expedited basis.
4. The Department shall follow policy and comply with the DHS-1843 that accompanies this Order.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 30, 2014

Date Mailed: April 30, 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

CAP/las

cc:



