

**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.: 2014-32553
Issue No(s): 2004
Case No.: ██████████
Hearing Date: April 24, 2014
County: Wayne (15)

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 24, 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 ██████████ Eligibility Specialist.

ISSUES

Did the Department properly implement and certify a previous Decision and Order (D&O) regarding an administrative hearing held on September 3, 2013?

Did the Department properly process Claimant's Medical Assistance (MA) application dated July 26, 2012, retroactive to June 2012?

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 July 26, 2012, Claimant's authorized representative (AR) (who is also the AHR) applied for MA benefits on behalf of the Claimant and also sought retroactive coverage to June 2012. See Exhibit 1.
2. On July 22, 2013, the AHR filed a previous hearing request, protesting the Department's failure to process the MA application. See Exhibit 1.

3. On September 23, 2013, the Administrative Law Judge (ALJ) sent a D&O in which it ordered the Department to reinstate and reprocess Claimant's MA application of July 26, 2012, retroactive to June of 2012 and issue a new Notice of Case Action to Claimant's AR (Reg. #2013-59177). See Exhibit 1.
4. On October 15, 2013, the Department sent the Claimant and the AR a Notice of Case Action notifying them that Claimant was approved for MA benefits with a monthly deductible effective December 1, 2012, ongoing. See Exhibit A.
5. However, the Notice of Case Action dated October 15, 2013, failed to address Claimant's MA eligibility for June and July of 2012. See Exhibit A.
6. On November 26, 2013, the Department sent Claimant a Reimbursement Notice (DHS-334). See Exhibit 1.
7. On December 20, 2013, the AR sent proof of Claimant's hospital bills for June and July of 2012. See Exhibit A.
8. On March 12, 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 1.

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.

The Department implements a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600 (July 2013), 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. The Department completes and sends 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.

On July 26, 2012, Claimant's AR (who is also the AHR) applied for MA benefits on behalf of the Claimant and also sought retroactive coverage to June 2012. See Exhibit 1. On July 22, 2013, the AHR filed a previous hearing request, protesting the Department's failure to process the MA application. See Exhibit 1.

On September 3, 2013, the AHR attended a previous hearing. In the Findings of Fact, the Department found that the Department issued a Notice of Case Action on December 27, 2012, but did not send a copy of the notice to Claimant's AR. See Exhibit 1. Therefore, on September 23, 2013, the ALJ sent a D&O in which it ordered the Department to reinstate and reprocess Claimant's MA application of July 26, 2012, retroactive to June of 2012 and issue a new Notice of Case Action to Claimant's AR (Reg. #2013-59177). See Exhibit 1.

Subsequent to the previous hearing, on October 15, 2013 the Department sent the Claimant and the AR a Notice of Case Action notifying them that Claimant was approved for MA benefits with a monthly deductible effective December 1, 2012, ongoing. See Exhibit A. However, the Notice of Case Action dated October 15, 2013, failed to address Claimant's MA eligibility for June and July of 2012. See Exhibit A. Also, on November 26, 2013, the Department sent Claimant a Reimbursement Notice (DHS-334). See Exhibit 1. On December 20, 2013, the AR sent proof of Claimant's hospital bills for June and July of 2012. See Exhibit A. Ultimately, on March 12, 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 1.

At the hearing, the AHR testified that some MA coverage was applied for the Claimant. The AHR testified that MA coverage was applied for June 2012, but not for July 2012. Therefore, it appeared that the Department partially processed the application, however, failed to determine Claimant's eligibility for July 2012. Moreover, the AHR testified that it needed billing exceptions for both months in order for the provider to submit expenses.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (July 2013), p. 13. Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110 (July 2013), p. 4. 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.

Based on the foregoing information and evidence, the Department failed to properly process Claimant's MA application dated July 26, 2012, retroactive to June 2012. BAM 105, p. 13; BAM 110, pp. 4 and 19; and BAM 115, pp. 15, 16, and 23.

As shown above, 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 September 23, 2013 (Reg. #2013-59177). BAM 600, pp. 38-39. A review of the previous administrative hearing stated that the Department was to reprocess the MA application and send a new Notice of Case Action. See Exhibit 1. Subsequent to the hearing, the Department partially complied with the D&O because it sent a Notice of Case Action that approved Claimant's MA coverage with a deductible effective December 1, 2012, ongoing. See Exhibit 1. However, the Notice of Case Action failed to address Claimant's MA eligibility for June 2012 to November 2012. Ultimately, the AHR testified that the Department applied MA coverage for June 2012, however, failed to determine eligibility for July 2012. Based on this information, the Department has only partially processed Claimant's application and failed to notify them of Claimant's eligibility for June 2012 to November 2012. Therefore, the Department will reprocess the MA application dated July 26, 2012, retroactive to June 2012 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 (i) 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 September 23, 2013 from the previous administrative hearing (Reg. #2013-59177); (ii) did not act in accordance with Department policy when it failed to properly process Claimant's MA application dated July 26, 2012, retroactive to June 2012; and (iii) acted in accordance with Department policy when it properly determined Claimant's MA eligibility for December 1, 2012, ongoing.

Accordingly, the Department's MA decision is AFFIRMED IN PART with respect to Claimant's MA eligibility for December 1, 2012, ongoing, and REVERSED IN PART with respect to Claimant's eligibility for June 2012 to November 2012.

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 September 26, 2013 from the previous administrative hearing (Reg. #2013-59177) in accordance with Department policy;

2. Initiate re-registration and reprocessing of Claimant's MA application dated July 26, 2012, retroactive to June 2012;
3. Begin issuing supplements to Claimant for any MA benefits he was eligible to receive but did not from June 2012 to November 2012; and
4. Begin notifying 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: May 6, 2014

Date Mailed: May 6, 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

2014-32553/EJF

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/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
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