

**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.: 14-015758
Issue No(s): 2004; 2007
Case No.: ██████████
Hearing Date: February 9, 2015
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Eric J. 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 February 9, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR), ██████████. A participant on behalf of the Department of Human Services (Department or DHS) was not present for the hearing.

ISSUES

Did the Department properly implement and certify a previous Decision and Order (D&O) regarding an administrative hearing held on March 31, 2014?

Did the Department properly process Claimant's Medical Assistance (MA) application dated May 3, 2012 and retroactive to February 2012 through July 30, 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 May 3, 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 February 2012. See Exhibit A, pp. 2 and 6.

2. On December 4, 2013, the AHR filed a previous hearing request, protesting the Department's failure to process the MA application. See Exhibit A, p. 7.
3. On April 14, 2014, this Administrative Law Judge (ALJ) sent a D&O in which it ordered the Department to do the following (Reg. No. 2014-16097): (i) initiate re-registration and processing of Claimant's MA application dated May 3, 2012, retroactive to February 2012 through July 30, 2013; (ii) begin issuing supplements to Claimant for any MA benefits he was eligible to receive but did not from February 2012 through July 30, 2013; and (iii) begin notifying Claimant and Claimant's AHR in writing of its MA decision in accordance with Department policy. See Exhibit A, pp. 10-11.
4. On April 18, 2014, the Department began to reprocess Claimant's application when it sent the Claimant a Verification Checklist (VCL) and it was due back by April 28, 2014. See Exhibit A, pp. 12-13.
5. On April 24, 2014, Claimant's AHR timely submitted the verifications via fax to the Department. See Exhibit A, pp. 14-18.
6. Subsequent to Claimant's AHR submitting the verifications, it never received a response as to the status of the application (i.e., Notice of Case Action). See Exhibit A, p. 2.
7. The Department failed to implement and certify the previous D&O and also failed to complete the reprocessing of Claimant's MA application/retro request.
8. On October 28, 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, p. 2.

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.

As a preliminary matter, on February 9, 2015, the Michigan Administrative Hearing System (MAHS) made attempts to contact the DHS office in order to participate in the hearing, but to no avail. As such, the hearing proceeded with only the Claimant's AHR present.

All hearing decisions must be recorded in the system, on the Hearing Restore Benefits screen. BAM 600 (March 2014), p. 42. Some hearing decisions require implementation by the local office. BAM 600, p. 42. The Department implements a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 42. The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, p. 43. 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. 43.

In this case, the Department began to properly implement and certify this ALJ's previous D&O when it sent Claimant a VCL request. See Exhibit A, pp. 12-13. Upon receipt of the VCL request, Claimant's AHR presented evidence that it timely submitted the verifications via fax to the Department. See Exhibit A, pp. 14-18. However, Claimant's AHR never received a response after submitting the verifications (i.e., Notice of Case Action). See Exhibit A, p. 2. It should be noted that the Department's hearing summary indicated that it did not receive any verifications that were requested as of November 13, 2014. See Exhibit A, p. 1. However, the Department failed to be present at the hearing to rebut the AHR's testimony and evidence presented that the AHR did submit the verifications on April 24, 2014. See Exhibit A, pp. 14-18. As such, the evidence presented that the Department failed to reprocess Claimant's MA application/retro request and, therefore, the Department failed to implement and certify the previous D&O. See BAM 600, pp. 42-43. The Department is ordered to implement and certify the D&O mailed on April 14, 2014, from the previous administrative hearing (Reg. No. 2014-16097) in accordance with Department policy.

Furthermore, the Department also failed to reprocess Claimant's MA application/retro request. The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (May 2012), p. 11.

Any person, regardless of age, or their authorized representative (AR) may apply for assistance. BAM 110 (May 2012), 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. 16.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (May 2012), p. 12. For MA applications, the Department certifies the program approval or denial of the application within 45 days. BAM 115, p. 12.

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. 18. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 19.

Based on the foregoing information and evidence, the Department failed to reprocess Claimant's MA application dated May 3, 2012, retroactive to February 2012 to July 30, 2013. BAM 105, p. 11; BAM 110, pp. 4 and 16; and BAM 115, pp. 12, 13, and 18-19. As shown above, the Department failed to satisfy its burden of showing that it properly implemented and certified the D&O. The Department began to reprocess Claimant's application, but failed to complete the application process. Therefore, the Department again has to reprocess Claimant's MA application dated May 3, 2012, retroactive to February 2012 to July 30, 2013.

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 April 14, 2014, from the previous administrative hearing (Reg. #2014-16097); and (ii) did not act in accordance with Department policy when it failed to properly process Claimant's MA application dated May 3, 2012, retroactive to February 2012, to July 30, 2013.

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 April 14, 2014, from the previous administrative hearing (Reg. #2014-16097) in accordance with Department policy;
2. Initiate re-registration and processing of Claimant's MA application dated May 3, 2012, retroactive to February 2012 through July 30, 2013;
3. Begin issuing supplements to Claimant for any MA benefits he was eligible to receive but did not from February 2012 through July 30, 2013; and

4. Begin notifying Claimant and Claimant's AHR in writing of its MA decision in accordance with Department policy.



Eric J. Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: February 13, 2015

Date Mailed: February 13, 2015

EJF/cl

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]
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