

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

IN THE MATTER OF:



Reg. No.: 2015-47
Old Reg No: 2014-35457
Issue No.: 2001 REHD/RECON
Case No.: [REDACTED]
Hearing Date: June 2, 2014
County: Macomb (50-12)

SUPERVISING ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

DECISION AND ORDER OF RECONSIDERATION

This matter is before the undersigned Supervising Administrative Law Judge (SALJ) pursuant to the Claimant's Authorized Hearing Representative's (AHR) timely Request for Rehearing/Reconsideration of the Hearing Decision generated by the assigned Administrative Law Judge (ALJ) at the conclusion of the hearing conducted on June 2, 2014, and mailed on June 18, 2014, in the above-captioned matter.

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 400.919, *et seq.*, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program or programs that is the basis for the claimant's benefits application, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

ISSUE

Whether the Administrative Law Judge erred in affirming the Department's decision to deny the Claimant's eligibility for Medical Assistance (MA) benefits for May, 2012?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Procedural History contained in Decision and Order After New Hearing Pursuant to Circuit Court Remand (Registration Number 2014-35457) are incorporated by reference.

2. Findings of Fact No. 1 through 6 contained in Decision and Order After New Hearing Pursuant to Circuit Court Remand (Registration Number 2014-35457) are incorporated by reference.
3. On June 2, 2014, a hearing was held resulting in a Hearing Decision mailed on June 18, 2014, finding Claimant was not eligible for Medical Assistance (MA) benefits for May, 2012.
4. On July 17, 2014, Claimant's AHR requested reconsideration/rehearing.
5. The Request for Rehearing/Reconsideration was granted.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The MA program is also referred to as "Medicaid." BEM 105 (10-1-2010). For Medicaid only, application may be made on behalf of a client by his spouse, parent, legal guardian, adult child, stepchild, core relative or any other person provided the person is at least age 18 or married. If this person is not a spouse, parent, legal guardian, adult child, stepchild, or core relative, the person must have authorization to act on behalf of the client, by the client, client's spouse, parents(s) or legal guardian. BAM 110, p 10 (5/1/2012). The Department pointed out that there was no evidence of an appointment of guardian.

Policy BAM 110 provides that when an assistance application is received in the local office without the applicant's signature or without a signed document authorizing someone to act on the applicant's behalf, a DHS-330, Notice of Missing Information, must be mailed to the individual explaining the need for a valid signature. BAM 110, p 10 (5/1/2012). Moreover, an application cannot be denied due to incompleteness until 10 calendar days from the date of the initial request.

Department policy defines an Authorized Representative (AR) as "[a] person who makes application or provides eligibility information on behalf of a client. Also, in FAP, a person who accesses food assistance benefits on behalf of a client. For MA purposes an authorized representative must be an adult child or stepchild, a specified relative, designated in writing by the client or court appointed." See Bridges Program Glossary (BPG), p 7 and BAM 110, p 11 (5/1/2012).

The Department's BPG at pp 6-7, defines an Authorized Hearing Representative (AHR) as follows:

The person who stands in for or represents the client in the hearing process and has the legal right to do so. This right comes from one of the following sources:

- Written authorization, signed by the client, giving the person authority to act for the client in the hearing process.
- Court appointment as a guardian or conservator.
- The representative's status as legal parent of a minor child.
- The representative's status as attorney at law for the client.

For **MA only**, the representative's status as the client's spouse, or the deceased client's widow or widower, **only** when no one else has authority to represent the client's interests in the hearing process.

An AHR has no right to a hearing, but rather exercises the client's right. Someone who assists, but does NOT stand in for or represent, the client in the hearing process need NOT be an AHR.

Note: "Stands in for" means the AHR does whatever the client could do if the client were **not** represented. For example, when the client has an AHR, the AHR must sign a hearing request withdrawal, not the client. Do **not** require the signature of both the client and the AHR when the client has an AHR representing him.

In the instant case, Claimant's AHR requested rehearing/reconsideration of the assigned ALJ's Decision and Order After New Hearing Pursuant to Circuit Court Remand and argued that the ALJ misapplied policy under BAM 110 that would impact the outcome of the original hearing decision. Specifically, Claimant's AHR alleges that the ALJ erred when she found that the Department properly denied Claimant's eligibility for MA during May, 2012. According to Claimant's AHR, BAM 110 requires the Department send a DHS-330 to the person who signs a request for assistance and to be afforded an opportunity to provide requested missing information. Claimant's AHR further argues that the Department failed to process the August 30, 2012 request for assistance which was completed on October 18, 2012.

Claimant's AHR also argues that the ALJ erred when she found Claimant's AHR lacked authority to represent the Claimant on August 30, 2012. Here, Claimant's AHR argues that Letters of Authority were extended on November 13, 2013 through July 19, 2014 which validates Claimant AHR's Authorization to Represent through July 19, 2014, which would also cover June 2, 2014, the date of the hearing.

Finally, Claimant's AHR challenges the ALJ's finding on page 4 of the decision where she indicates that "the intent of the policy is not to allow an anticipated hearing

representative to obtain authorization he or she should have had when the application (or in this case filing form) was filed but to provide it in the event it was unintentionally not submitted with the application or filing form.”

In this case, the Claimant died in [REDACTED]. Claimant's AHR [REDACTED] contends that it faxed a Filing Form and Facility Admission Notice to the Department on August 30, 2012. During the hearing, the [REDACTED] representative then submitted fax confirmation documentation that purportedly showed the Department received 4 (four) pages on August 30, 2012. [REDACTED] further argues that 3 (three) of the pages consisted of the fax cover sheet, the Filing Form and the Facility Admission Notice. However, [REDACTED] was unable to identify the fourth page due to a “computer malfunction.” Accordingly, [REDACTED] takes the position that the Department failed to follow policy (BAM 110) when it registered the application and sent a DHS-330, Notice of Missing Information form on August 30, 2012. The Department representative; on the other hand, argued that [REDACTED] did not have proper authority to represent Claimant at the time it submitted the filing form on August 30, 2012. During the hearing, [REDACTED] did not dispute that it lacked proper authorization to submit the application on August 30, 2012, but argues that it submitted the Filing Form in an attempt to preserve the application date while awaiting the Probate Court for authorization. There was no dispute; however, that at the time of the hearing, [REDACTED] did not have documentation to show that it had authority to represent Claimant.

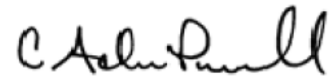
The salient issue is not whether the Department failed to process the Filing Form, but whether [REDACTED] had the requisite authority to represent Claimant on August 30, 2012. In other words, was [REDACTED] the Claimant's AR during the relevant time period? As indicated above, department policy is clear that any person, regardless of age, or their authorized representative (AR) may apply for Medicaid assistance (emphasis added). Because [REDACTED] was not Claimant's Authorized Representative on August 30, 2012, it lacked the authority to apply for assistance on Claimant's behalf. Accordingly, the Department's alleged failure to properly register and mail the Notice of Missing information is moot.

Here, the record shows that [REDACTED] became Claimant's Authorized Representative no earlier than October 1, 2012. Therefore, when [REDACTED] filed the completed application on October 18, 2012, the Department properly denied the application as May, 2012 was not included in the 3 (three) months of Retroactive-Medicaid allowed by Departmental policy. Based on the substantial, material and competent evidence on the whole record, the undersigned finds that the Department properly denied Claimant's Medicaid application.

DECISION AND ORDER

In light of the foregoing, the Administrative Law Judge's Hearing Decision mailed on June 18, 2014, under Registration Number 2014-35457, that upheld the Department's denial of MA eligibility is **AFFIRMED** and Claimant is not eligible for Medicaid coverage for the month of May, 2012.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Human Services

Date Signed: 02/25/2015

Date Mailed: 02/26/2015

NOTICE OF APPEAL: The law provides that within 30 days of receipt of this decision, the Claimant may appeal this decision to the circuit court for the county in which he/she lives.

CAP/sw

cc:

