

**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.: 14-018847
Issue No.: 2002; 2004
Case No.: ██████████
Hearing Date: March 05, 2015
County: WAYNE-DISTRICT 35
(REDFORD)

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 March 5, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR), ██████████, Appeals Analyst from Advomas. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Hearings Facilitator.

ISSUES

Did the Department fail to properly process Claimant's retroactive Medical Assistance (MA) application for May 2014?

Did the Department properly deny Claimant's retroactive MA application for May 2014 due to the failure to comply with the verification requirements?

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 23, 2014, the authorized representative (AR – who is also the AHR in this case), applied for MA benefits on behalf of the Claimant. See Exhibit 1, pp. 8-10.
2. On May 23, 2014, the Department sent Claimant/AHR a Verification Checklist (VCL), which was due back by June 2, 2014. See Exhibit 1, pp. 11-12.

3. On May 28, 2014, the Department sent Claimant a Verification of Employment, which was due back by June 9, 2014. See Exhibit 1, pp. 13-14.
4. On June 3, 2014, the Department sent Claimant/AHR a Health Care Coverage Determination Notice (determination notice) notifying Claimant/AHR that Claimant's application was denied effective May 1, 2014, ongoing, for failure to provide verification of income. See Exhibit 1, pp. 15-16.
5. On July 25, 2014, the authorized representative (AR – who is also the AHR in this case), applied for MA benefits on behalf of the Claimant, retroactive to May 2014.
6. On August 25, 2014, the Department sent Claimant/AHR a VCL requesting verification of pregnancy and due date, and it was due back by September 4, 2014. See Exhibit 1, pp. 17-18. It should be noted that Claimant's VCL was returned from the United States Postal Service (USPS) as undeliverable. See Exhibit 1, p. 19.
7. On September 4, 2014, the AHR sent via e-mail to the Department verification of Claimant's pregnancy. See Exhibit A, pp. 2-3.
8. On September 4, 2014, the Department responded via e-mail to the AHR that the verification failed to mention Claimant's expected delivery date. See Exhibit A, p. 2.
9. On September 4, 2014, the AHR sent via e-mail to the Department a request for extension in order to provide the verification until September 15, 2014 (first extension request). See Exhibit A, p. 2.
10. On September 4, 2014, the Department granted the AHR's first extension request. See Exhibit A, p. 2. There was no indication that an updated VCL was sent to the AHR approving the first extension.
11. On September 15, 2014, the AHR sent via e-mail to the Department a request for another extension in order to provide the verification until September 25, 2014 (second extension request). See Exhibit A, p. 1. The evidence provided no response to whether the Department approved the second extension request.
12. On September 18, 2014, the Department sent Claimant/AHR a determination notice notifying Claimant that she was not eligible for MA benefits effective October 1, 2014, ongoing, for failure to provide verification of pregnancy. See Exhibit 1, pp. 20-21. The determination notice failed to address the denial period for the retroactive request of May 2014. It should be noted that Claimant's determination notice was returned from the USPS as undeliverable. See Exhibit 1, p. 22.
13. On October 9, 2014, the Department's hearing summary indicated that another application was submitted, retroactive to July 2014. See Exhibit 1, p. 1. The

application was processed and Claimant received MA coverage from July 1, 2014, ongoing. See Exhibit 1, pp. 1 and 24.

14. On December 15, 2014, Claimant's AHR filed a hearing request, protesting the Department's failure to process retroactive MA coverage for May 2014. See Exhibit 1, pp. 2-7.

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.

Preliminary matters

First, Claimant's AHR testified that she is only disputing the Department's failure to process MA coverage for May 2014 (retroactive).

Second, this Administrative Law Judge (ALJ) lacks the jurisdiction to address the AHR's dispute in regards to the first MA application dated May 23, 2014. See BAM 600 (March 2014), p. 6. On June 3, 2014, the Department sent Claimant/AHR a determination notice notifying Claimant/AHR that Claimant's application was denied effective May 1, 2014, ongoing, for failure to provide verification of income. See Exhibit 1, pp. 15-16. On December 15, 2014, Claimant's AHR filed a hearing request, protesting the Department's failure to process retroactive MA coverage for May 2014 and referenced the original application. See Exhibit 1, pp. 2-7. The AHR's hearing request was not timely filed within ninety days of the determination notice (dated June 3, 2014) and is, therefore, **DISMISSED** for lack of jurisdiction. Nevertheless, Claimant reapplied on July 25, 2014 and the denial notice was sent on September 18, 2014. Claimant's AHR hearing request was timely filed within ninety days of this determination notice; therefore, this ALJ proceeded to address Claimant's MA application dated July 25, 2014, retroactive to May 2014. See BAM 600 (July 2014), p. 6.

Third, the AHR's hearing request indicated the second application was dated August 25, 2014. See Exhibit 1, p. 2. However, Claimant's second application was actually dated

July 25, 2014. Nonetheless, both parties agreed that the application was dated July 25, 2014, retroactive to May 2014.

Retroactive MA application

In this case, the Department argued that the AHR failed to provide the verification of pregnancy and due date by September 4, 2014. See Exhibit 1, pp. 17-18. Therefore, the Department argued that it properly denied Claimant's MA application on September 18, 2014, for failure to provide verification of pregnancy.

In response, the AHR had two arguments. First, the determination notice dated September 18, 2014, failed to address Claimant's denial period for May 2014 (retroactive period). See Exhibit 1, pp. 20-21. The determination notice only indicated ineligibility effective October 1, 2014, ongoing. See Exhibit 1, pp. 20-21. Second, the AHR provided evidence that it requested a second extension and to allow the AHR to provide the verification until September 25, 2014. See Exhibit A, p. 1. The second extension request was requested on the last due date of the first extension request. See Exhibit A, p. 2. However, it appeared that the AHR's second extension request was not granted as the Department sent a denial notice on September 18, 2014. See Exhibit 1, pp. 20-21.

Based on the foregoing information and evidence, the Department (i) failed to satisfy its burden of showing that it properly processed Claimant's MA retroactive application for May 2014; and (ii) did not act in accordance with Department policy when it denied Claimant's MA application, retroactive to May 2014 for failure to comply with the verification requirements.

First, the DHS-3243, Retroactive Medicaid Application, is used along with the DHS-4574 or DCH-1426 for retro MA applications and only one DHS-3243 is needed to apply for one, two or three retro MA months. BAM 110 (July 2014) p. 4. The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (July 2014), p. 14. 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 benefit programs for processing times, which are described as follows: 90 days for MA categories in which disability is an eligibility factor. BAM 115, p. 15. The SOP can be extended 60 days from the date of deferral by the Medical Review Team (MRT). BAM 115, p. 15.

Retro MA coverage is available back to the first day of the third calendar month prior to the criteria listed in BAM 115. BAM 115, p. 11. A person might be eligible for one, two or all three retro months, even if not currently eligible. BAM 115, p. 12. A separate determination of eligibility must be made for each of the three retro months. BAM 115, p. 13.

If the group is ineligible or refuses to cooperate in the application process, the Department certifies the denial within the standard of promptness and sends a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, pp. 22-23. Medicaid denials receive a DHS-1606, Health Care Coverage Determination Notice. BAM 115, p. 23. The Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 23. The Department sends the DHS-1606 detailing Medicaid approvals. BAM 115, p. 23.

Based on the above information, the Department failed to show that it properly processed Claimant's MA retroactive application as the determination notice failed to address the denial period for May 2014. See Exhibit 1, p. 20. As such, the Department will re-register and reprocess Claimant's retroactive MA application in accordance with Department policy. See BAM 110, p. 4 and BAM 115, pp. 14-23.

In the alternative, even if the Department argued that it did process Claimant's retroactive application, the Department failed to grant the AHR's second extension request in accordance with Department policy.

The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130 (July 2014), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department extends the time limit up to two times. BAM 130, p. 7. The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7.

In this case, the AHR clearly made a reasonable attempt to provide the verification on September 4, 2014; however failed to provide verification of Claimant's expected delivery date. See Exhibit A, pp. 2-3. As such, the AHR requested a first extension to provide the verification until September 15, 2014, and it was granted by the Department. See Exhibit A, pp. 2-3. Then, before the expiration of the first extension request, the AHR requested a second extension request in order to provide the verification until September 25, 2014. See Exhibit A, p. 1. However, the Department clearly failed to grant the second extension request until September 25, 2014, as it sent a denial notice on September 18, 2014. See Exhibit 1, pp. 20-21. The evidence presented that the AHR requested a second extension request and the Department failed to respond to the AHR's extension request. Therefore, the Department improperly denied Claimant's retroactive MA application for May 2014 in accordance with Department policy and it will re-register/reprocess Claimant's retroactive application. See BAM 130, p. 7.

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 properly processed Claimant's MA retroactive application for May 2014; (ii) did not act in accordance with Department policy when it

denied Claimant's MA application, retroactive to May 2014 for failure to comply with the verification requirements; and (iii) this ALJ lacks the jurisdiction to address Claimant's MA application dated May 23, 2014.

Accordingly, the Department's MA decision AFFIRMED IN PART with respect to lack of jurisdiction for application dated May 23, 2014 and REVERSED IN PART with respect to retroactive MA application for May 2014 (application submitted on July 25, 2014).

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. Initiate re-registration and reprocessing of Claimant's retroactive MA application for May 2014;
2. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive but did not for May 1, 2014, to May 31, 2014; and
3. Begin notifying Claimant and Claimant's AHR of its MA decision in accordance with Department policy.


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

Date Signed: **3/6/2015**

Date Mailed: **3/6/2015**

EJF/tm

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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