

**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.: 14-016662
Issue No.: 2001
Case No.: ██████████
Hearing Date: March 23, 2015
County: Oakland-District 3 (Southfield)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on March 23, 2015, from Southfield, Michigan. Participants on behalf of Claimant included ██████████, Claimant's widow; ██████████, Claimant's daughter; ██████████, attorney, who participated by telephone; and ██████████, paralegal. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist and Hearing Facilitator.

ISSUE

Did the Department properly process Claimant's July 28, 2014 application for Medical Assistance (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 July 28, 2014, an application for MA was submitted on Claimant's behalf, listing Claimant's attorney as his authorized representative.
2. On an unknown date, Claimant was approved for MA coverage under the Healthy Michigan Program (HMP).
3. Notice was not sent to Claimant's attorney.
4. On October 30, 2015, Claimant's attorney requested a hearing disputing the Department's actions.

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, it is noted that the hearing request was filed by Claimant's attorney. A hearing request may be made by a client's authorized hearing representative (AHR). BAM 600 (October 2014), p. 2. An AHR must have been authorized or have made application through probate court before signing a hearing request for the client unless the AHR is the client's attorney at law or, for MA only, spouse. BAM 600, p. 2. During the hearing, it was noted that Claimant was deceased. Claimant's widow was at the hearing. Because Claimant's widow could request a hearing on Claimant's behalf and have counsel represent her, the hearing was properly requested. Therefore, the merits of the issues presented were addressed.

At the hearing, the Department acknowledged that Claimant's application was not properly processed because the application indicated that Claimant was in a long-term care facility and the application was processed only for HMP eligibility. A client is entitled to the most beneficial MA category available to him, and, a client's eligibility for extended care MA should be considered before eligibility for HMP. BEM 105 (January 2014), pp. 2, 4. Therefore, the Department did not act in accordance with Department policy when it failed to process Claimant's application for extended care benefits eligibility.

At the hearing, upon reviewing Claimant's file, the Department noted that the application was signed by counsel, who identified himself as Claimant's authorized representative, but there was no signed authorization given by Claimant or his spouse authorizing counsel to act on Claimant's behalf. See BAM 110 (July 2014), p. 10.

Before an application is registered, it must be signed by the client or the authorized representative. BAM 115 (July 2014), p. 2; BAM 110, p. 10. Department policy provides that when an MA 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, the Department must do the following:

- Register the application as a request if it contains a signature.
- Send a DHS-330, Notice of Missing Information, to the individual explaining the need for a valid signature. The signature page of the application may be copied and sent to the agency or individual who filled out the application with the notice.
- Allow 10 days for a response. [The Department] cannot deny an application due to incompleteness until 10 calendar days from the date of [the] initial request in writing to the applicant to complete the application form or supply missing information, or until the initial scheduled interview.
- Record the date the application or filing form with the minimum information is received. The application must be registered and disposed of on Bridges, using the receipt date as the application date.

BAM 110, pp. 10-11.

In this case, there was no evidence presented that the Department requested verification of counsel's authority before processing the application. As such, the Department may not rely on the absence of such authorization to support its failure to notify counsel of the actions taken in Claimant's case or to deny the application. However, the Department is entitled to such authorization, requested in accordance with policy, in order to register and process the application.

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 processed Claimant's July 28, 2014 MA application.

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. Reregister, in accordance with Department policy, Claimant's July 28, 2014 MA application;
2. Once reregistered, reprocess the application and provide Claimant with MA coverage he is eligible to receive; and
3. Notify Claimant and any properly authorized representative of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **4/15/2015**

Date Mailed: **4/15/2015**

ACE / tlf

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:

