

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004796
Issue No.: 2004
Case No.: [REDACTED]
Hearing Date: May 27, 2015
County: MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a three way hearing was held on May 27, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant's Authorized Hearing Representative (AHR), [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Hearing Facilitator and [REDACTED], Assistance Payments Worker/ Medical Contact Worker.

ISSUE

Did the Department properly comply with the Decision and Order of Reconsideration issued by Administrative Law Judge C. Adam Purnell on [REDACTED], ordering the Department to reregister and reprocess the Claimant's [REDACTED] application for retro 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. The Claimant's AHR submitted a **retro MA application on** [REDACTED], for the retro months of September 2011 through November 2011. Exhibit A
2. On [REDACTED], the MRT determined the Claimant did not meet the disability requirements for a **prior MA and retro MA application dated** [REDACTED], for the same retro month as the April 18, 2012 application (September 2011 through November 2011). The Department issued an eligibility certification

- on [REDACTED] denying the Claimant's [REDACTED] application and retro application. This denial decision was not appealed. Exhibit B
3. The Claimant was awarded SSI benefits with an onset disability date of [REDACTED].
 4. A Decision and Order of Reconsideration was issued by Administrative Law Judge Adam Purnell on [REDACTED]. That decision involved the Department's alleged failure to process Claimant's [REDACTED] application filed by the AHR for retro MA for September, October and November 2011. At a previous hearing the ALJ found that because the MRT previously found that Claimant was not disabled, the Department was not required to complete a second disability determination. The Decision issued by ALJ Purnell reversed that Decision and ordered the Department to register and process the Claimant's [REDACTED] application for retro MA. The Order also required the Department take steps necessary in order to [determine] Claimant's eligibility for retro MA. Exhibit D
 5. The Department, pursuant to the Decision and Order of Reconsideration, contacted the MRT on [REDACTED] via email and was advised that the MRT decision has been determined and no further action is needed.
 6. Pursuant to the Decision and Order of Reconsideration, the Department issued a Benefit Notice on [REDACTED], which denied the retro MA application stating: "MRT has made a decision for the retro months as of [REDACTED] per the hearing decision and order of reconsideration for ref # 2013-34685, 2014-30905. The medical review team has determined that the client doesn't meet the disability requirements for this program". Exhibit A.
 7. The Claimant's AHR testified they did not receive the [REDACTED] Benefit Notice until [REDACTED]. L&S had requested a copy of the Notice and the Department emailed the Notice on that date. Once the Notice was received, the Claimant's AHR filed a second hearing request on [REDACTED] appealing the MRT denial. This hearing request is considered in a companion case to the instant request ([REDACTED] 15-006387 also heard at the same time as the instant hearing).
 8. The Claimant's AHR requested a hearing on [REDACTED], due to the failure of the Department to process the [REDACTED] application per the Decision and Order of Reconsideration; and to provide a verification checklist or an Application Eligibility Notice.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services

Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department was ordered to register and process the [REDACTED] application for retro MA covering the months of September 2011, October 2011 and November 2011. A Decision and Order of Reconsideration was issued by Administrative Law Judge Adam Purnell on [REDACTED]. That decision involved the Department's alleged failure to process Claimant's AHR's [REDACTED] application for retro MA for September, October and November 2011. At a previous hearing the ALJ found that because the MRT previously found that Claimant was not disabled, the Department was not required to complete a second disability determination. The Decision issued by ALJ Purnell specifically reversed the prior Decision and ordered the Department to register and process the Claimant's [REDACTED] application for retro MA. The Order also required the Department to take steps necessary in order to [determine] Claimant's eligibility for retro MA. Exhibit D

It is unclear from the record whether the MRT made a determination after the Department was ordered to register the application by the Decision and Order of Reconsideration dated [REDACTED]. The Department issued a Benefit Notice dated [REDACTED], which denied the retro MA application stating: "MRT has made a decision for the retro months as of [REDACTED] per the hearing decision and order of reconsideration for ref # 2013-34685, 2014-30905. The medical review team has determined that the client doesn't meet the disability requirements for this program." Exhibit A. A Certification of Administrative Hearing Order was certified on [REDACTED] [REDACTED] indicated "MAHS been addressed; the Department has previously (2) submitted Mr. Simpsons case. See MRT Denial and emails dated [REDACTED] and [REDACTED] where the denial for retro MA 9/2011 – 11/2011 stand as a valid denial." The Department witness testified that the [REDACTED] application was never processed as ordered by the Decision and Order of Reconsideration. In fact, the Department apparently did not even have a copy of the [REDACTED] application, even though this very application was the subject of the Decision and Order of Reconsideration. There is no issue of fact as to whether at some point the Department had the application as such a finding was already established by the Decision and Order of Reconsideration.

After the Claimant's hearing request on [REDACTED], inquiring whether the Department complied with the Decision and Order of Reconsideration and whether an

MRT decision had been issued, the Department contacted the MRT again via email on [REDACTED] and requested the MRT's help with an old case. In its email, the Department stated that, "L&S has continuous[ly] sent in hearing request to address medical coverage for 9/2011 – 11/2011. As SSI approved client as of [REDACTED] and the client was denied by MRT prior to that. L&S has sent in a hearing for reconsideration for the retro months referenced above, can you please advise me on the direction which is best to address this matter as I have completed 2 DHS 1843 for this same issue. I have cc'd my supervisor on this email just to keep her informed on this issue" (Exhibit 3).

The MRT responded on [REDACTED]: "as I told you back in 2012, MRT has already made a decision on this application. The decision was not appealed and therefore that decision stands. This has been an ongoing issue between third parties and the department. L&S cannot ask for a decision on an application that already has a decision on it. You need to get a policy clarification on it. What we have been told all along is that the fact that he is now approved for SSA benefits doesn't matter and like the policy person told you in the attached email – RETRO is not automatic prior to SSA approval. That decision has to be made by MRT and in this case MRT has already made that decision. I have cc'd my manager too because this has been something that continues to come up. The decision has already been made on that application for that time period – the decision is denial – MRT will not reevaluate that decision just because SSA has now determined him disabled". Exhibit 3

Nowhere in the above referenced email correspondence is the Decision and Order of Reconsideration or the [REDACTED] retro application referred to. Based upon the evidence presented, it is determined that the Department did not process the [REDACTED] application as ordered, the Department witness confirmed no verifications were sought, no DHS49 series were sent, and based upon the evidence nothing was submitted to the MRT when the [REDACTED] Benefits Notice was issued. The MRT was simply contacted, and advised the Department they would not revisit this case and no MRT decision was issued, only an email (Exhibit 3). It was also clear that the evidence established that the [REDACTED] retro application was reregistered and re-processed as ordered. It does not appear any new decision was issued by the MRT.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy as it failed to comply with the Decision and Order of Reconsideration to register and process the [REDACTED] retro MA application as Ordered by Judge Purnell's [REDACTED] Decision and Order of Reconsideration.

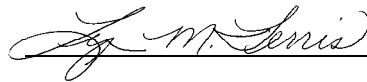
DECISION AND ORDER

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. The Department shall reregister and reprocess the Claimant's [REDACTED] MA retro application; and seek verifications of medical evidence and shall submit the retro application and medical evidence to the MRT for review and eligibility determination in accordance with the [REDACTED] Decision and Order or Reconsideration and Department policy.
2. The Department shall notify the AHR L&S Associates in writing of the MRT decision and shall provide a copy of the MRT decision and issue the appropriate Notice of its eligibility determination.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/10/2015**

Date Mailed: **8/10/2015**

LMF / hw

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

