

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-006387
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 telephone hearing was held on May 27, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant's Authorized Hearing Representative (AHR) [REDACTED] [REDACTED] Hearing Representative. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Hearing Facilitator and [REDACTED], Assistance Payment's Worker and Medical Contact Worker.

ISSUE

Is the Claimant's AHR hearing request appealing the Department's denial of Claimant's MA retro application timely?

Did the Department properly process the retro MA application dated [REDACTED] ?

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 filed a retro MA application on [REDACTED], requesting retro MA for September 2011 through November 2011. The Claimant was approved to SSI with an onset date of [REDACTED].
2. The Claimant filed a hearing request on [REDACTED] appealing the MRT denial of Claimant's [REDACTED] MA retro application. The hearing request stated that the appeal was timely as [REDACTED] did not receive the DHS 176 Notice of Denial until the Department emailed the Notice on [REDACTED].

3. The DHS 176 Benefit Notice of Denial was sent by the Department caseworker manually rather than through central print. The notice was also out of date, as the policy manual cited PEM and PAM, which are no longer applicable.
4. The Department has asserted that the hearing request of [REDACTED] is untimely as it was filed beyond the 90 calendar days. The Benefit Notice was issued by the Department and is dated [REDACTED] 4, and was sent via United States Postal Mail via local office. The Notice states as the actions being taken: "MRT has made a decision for the retro months of (9/11 – 11/11) per the hearing decision of reconsideration REG#2013-34685; 2014-39095. The medical review team has determined that the client doesn't meet the disability requirements for the program." Exhibit A
5. The AHR at the hearing testified that L&S did not receive the Benefit Notice of [REDACTED]. There was no returned mail in the Department's file and the Notice was sent local print by the caseworker, not the Bridges system. Exhibit A
6. The DHS 176 mailed manually was sent to: [REDACTED]

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 sent a Benefit Notice on [REDACTED] to the Claimant's AHR, [REDACTED]. The Claimant's AHR testified that that it never received the [REDACTED] Benefit Notice. Subsequently, the Department emailed the AHR a copy of the Benefit Notice ON [REDACTED] when a DHS representative [REDACTED] emailed the Notice to the AHR.

The first issue that needs to be addressed is whether the AHR received timely notice of the Benefit Notice. The general rule of law regarding determinations of whether mail is received provides:

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

A review of the evidence presented indicates that the Notice was not properly address although the P.O. Box number was correct, the zip code was not correct. Thus the requirement of proper addressing of the letter was not met by the Department. Because this letter was sent separately rather than by the Bridges Computer system an error was made. The zip code was shown as [REDACTED] and the correct zip code is [REDACTED]. Although there was no returned mail, that fact is not sufficient to establish that the letter was received because the letter was not properly addressed. Therefore it is determined that the hearing request is timely. This being the case the Department's notice was insufficient to satisfy the processing requirements as it was not properly addressed.

In a companion case, involving Claimant [REDACTED] and the [REDACTED] retro MA application (15-004796), which was heard at the same time as the instant matter, it has been determined in that case that the Department did not comply with Department policy regarding registration and processing requirements in conjunction with a Decision and Order of Reconsideration which ordered the Department to register and process Claimant's [REDACTED] retro MA application regardless of the MRT's previous determination of disability. DHS was ordered to take the steps necessary in order to determine eligibility for retro MA, Registration No. 2014-36095 REHD/RECON, ALJ, C. Adam Purnell, dated and mailed [REDACTED].

The Decision and Order in the case referenced above (Reg. No. 15-004796) has ordered the Department to reregister the [REDACTED] retro MA application and to re-process the decision to the MRT in accordance with Department policy and the Decision and Order of Reconsideration.

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 sent the [REDACTED] Benefit Notice with an improper address and thus failed to provide the Claimant's AHR with Notice of the Department's action.

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 Claimant's AHR's Hearing Request of [REDACTED] is **Dismissed** as the Department's denial of the Claimant's MA retro application dated [REDACTED] has been reversed and the

Department has been ordered to reregister and reprocess the [REDACTED] application, and therefore Claimant's appeal of the MRT decision is no longer ripe for a hearing.

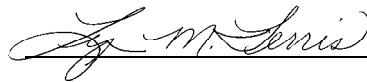
DECISION AND ORDER

Accordingly, the Department's decision is

REVERSED.

The Hearing Request dated [REDACTED] is hereby **DISMISSED**

IT IS SO ORDERED.



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

Date Signed: **8/11/2015**

Date Mailed: **8/11/2015**

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:

