

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

IN THE MATTER OF:



Reg. No.: 15-012106
Issue No.: 2000, 2004
Case No.: [REDACTED]
Hearing Date: September 09, 2015
County: WAYNE-DISTRICT 57

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 telephone hearing was held on September 9, 2015, from, Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Eligibility Specialist and [REDACTED], FIM.

ISSUE

Did the Claimant file a timely hearing request regarding the Department's denial of her [REDACTED] Medical Assistance (MA) application for failure to verify information?

Did the Department register and process the Claimant's Retro Medical Assistance (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 an application for MA on [REDACTED] for herself and her son.
2. The Department sent a verification checklist to the Claimant dated [REDACTED] with verifications due [REDACTED].
3. The Department issued a Health Care Coverage Determination Notice on [REDACTED] denying the Claimant's [REDACTED] application for failure to provide the requested verifications.

4. The Claimant applied for Retro MA on [REDACTED], for the month of January 2015. The Department received but never processed this application.
5. The Claimant requested a hearing on [REDACTED], protesting the Department's actions.

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.

[REDACTED] MA Application

In this case, the Claimant has requested a hearing regarding the Department's failure to grant her Medical Assistance for January 2015 ongoing. The Claimant applied with the Department on two occasions. The Claimant applied for MA on [REDACTED] which application was denied for failure to verify information by a Health Care Coverage Determination Notice dated [REDACTED].

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2014),

p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In this case, the Department did not receive the Claimant's Hearing Request until [REDACTED] [REDACTED] which is more than 90 days from the Department's [REDACTED] Health Care Coverage Determination Notice. Therefore, the hearing request is untimely and must be dismissed. Although the Claimant claimed she did not receive the Notice, the Notice was properly addressed and sent out by the Department and thus is presumed to be received. 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). In this case, no evidence which served to rebut the presumption that the Notice was properly addressed and mailed was presented by the Claimant.

[REDACTED]
The Claimant also seeks to have a [REDACTED] MA application for Retro MA for January 2015 processed. At the hearing, the Department conceded that it did not process the application when it was received and that various verifications were received in March 2015. Based upon the Department's testimony, it is determined that the [REDACTED] application was never processed and must be registered and processed as required by Department policy.

BAM 110 requires that a duly filed application must be registered by the Department. BAM 110 (July 1, 2014) p. 7 and 19. BAM 115 requires the Department to act with promptness and to process the application and certify approval or denial of the application within 45 days. The Department must process application as quickly as possible. BAM 115 January 1, 2015, p. 15. Based upon the evidence presented that an application was duly filed by the Claimant on [REDACTED] and that the application was never registered or processed, the Department had and has an obligation based upon Department policy to register and process the retro MA 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 Claimant's hearing request regarding the Department's denial of the Claimant's MA application dated [REDACTED] is untimely, as it was not filed within 90 days of the Department's action taken [REDACTED] and therefore must be dismissed.

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 hearing request was filed timely regarding the Department's failure to process the Claimant Retro MA application dated [REDACTED], as the Department failed to register and process the application.

DECISION AND ORDER

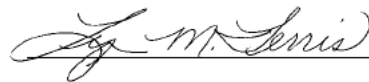
Accordingly, the Department's decision is

The Claimant's hearing request dated [REDACTED] requesting a hearing regarding the Department's denial of Claimant's [REDACTED] MA application is untimely and is hereby **DISMISSED**.

REVERSED with respect to the [REDACTED] retro MA application.

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 register and process the Claimant's [REDACTED] Retro MA application and determine eligibility.
2. The Department shall provide the Claimant written notice of its eligibility determination.



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

Date Signed: **9/10/2015**

Date Mailed: **9/10/2015**

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:

