

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-019676
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: September 21, 2015
County: WAYNE-DISTRICT 76

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 September 21, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant's Authorized Hearing Representative [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Assistance Payments Worker and [REDACTED] Hearing Facilitator/Assistance Payments Supervisor.

ISSUE

Did the Department fail to process the Claimant's AHR's 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 [REDACTED], Claimant's AHR, acting as Claimant's authorized representative submitted a MA application on Claimant's behalf with a request for retroactive coverage to July 2013.
2. At a previous Administrative Hearing conducted on [REDACTED], the Department was ordered to determine Claimant's eligibility for MA benefits and provide notice of its decision regarding eligibility to both the Claimant and the AHR in writing by a Hearing Decision issued by Administrative Law Judge Alice C. Elkin on [REDACTED].

3. The Department issued a Health Care Coverage Determination Notice on [REDACTED] denying the Claimant's AHR's application for Medical Assistance with a request for retroactive coverage to July 2013, dated [REDACTED]. The Notice was addressed to the Claimant, [REDACTED]. Exhibit 1
4. The Department certified compliance with ALJ Elkin's Hearing Decision on April 18, 2014, after it sent the [REDACTED] Health Care Coverage Determination Notice to the Claimant.
5. The Claimant's AHR requested a hearing on [REDACTED], asserting that it had not received a Verification Checklist or Application Eligibility Notice; and requested that the Department comply with ALJ Elkin's Hearing Decision to reprocess the case.
6. The Department did not send the [REDACTED] Health Care Coverage Determination Notice to the Claimant's AHR when originally issued on [REDACTED], [REDACTED].
7. On [REDACTED], after receipt of the instant hearing request in this case, the Department provided, via fax to the AHR, the Department's certification of the Hearing Decision and the Health Care Coverage Determination Notice dated [REDACTED] addressed to the Claimant. This fax was received after the Claimant's [REDACTED] hearing request and was provided 6 months after the issuance of the Health Care Coverage Determination Notice.
8. The Claimant requested a timely hearing on [REDACTED] regarding the Department's failure to process the Claimant's MA application and retro MA application.

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 process an [REDACTED] MA application with a retroactive request for July 2013. The Department was also ordered to notify the Claimant and the AHR, in writing, of its decision (ALJ Elkin Hearing Decision, Reg. No. 2014-21553). Thereafter, the Department issued a Health Care Coverage Determination Notice dated [REDACTED] denying the Claimant's application. The Department conceded that it did not send the Health Care Coverage Determination Notice dated [REDACTED] to the Claimant's AHR. The Health Care Coverage Determination Notice was addressed to the Claimant.

On [REDACTED], the Claimant's AHR filed a request for hearing, requesting a hearing to prompt the Department to comply with the Hearing Decision issued by ALJ Elkin on [REDACTED] and more specifically:

"to reprocess the Medicaid application that L&S Associates submitted on [REDACTED] with retroactivity to July 2013. Per BAM 600, The Department is to implement a decision and order within ten calendar days of the mailing date on the hearing decision. To date, we have still not received a Verification Checklist or an Application Eligibility Notice despite our many requests to DHS to reprocess the application."

Subsequent to the AHR's hearing request in this case, the Department provided a copy of the Health Care Coverage Determination Notice dated [REDACTED] addressed to the Claimant, to the AHR via fax on [REDACTED]. Exhibit 2. The Health Care Coverage Determination Notice sent by the Department via fax was not addressed to the AHR, as required by Department policy and ALJ Elkins Hearing Decision. The AHR did not request another hearing after its receipt of the [REDACTED] Health Care Coverage Determination Notice after the AHR received it via fax in October 2014. Department policy provides that the AHR assumes all the responsibilities of a client.

All Programs

An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (for example, to obtain FAP benefits for the group).

The AR assumes all the responsibilities of a client; see BAM 105.

The Department was required to provide written notice to the Claimant's AHR regarding its eligibility determination as ordered by the Hearing Decision of ALJ Elkin, as well as Department policy. The Department clearly could not demonstrate compliance with the Hearing Decision and Department policy with regard to communicating its action to the AHR. In addition, sending a Health Care Coverage Determination Notice 6 months after the Department's action and not providing a current Health Care Coverage Determination Notice with the AHR as the addressee does not comport with either Department policy to provide notice to applicants of its decisions, or the Elkin Hearing

Decision. At the time the Certification of the Hearing Decision was made by the Department certifying its compliance with the Hearing Decision, the Department had not mailed the Health Care Coverage Determination Notice to the Claimant, representative and AHR. Exhibit 2. Lastly, the very issue considered by Judge Elkin was whether the Department provided notice to the AHR, which at that hearing, the Department conceded that it did not send notice to the AHR although the Hearing Decision ordered the Department to do so.

Given the facts presented, it is determined that the Department must follow and comply with Department policy and provide notice to the Authorized Representative who filed the application and the AHR who requests the hearing. The undersigned also considered the prejudice created by providing the AHR a copy of the Health Care Coverage Determination Notice (not addressed to the AHR) via fax, as verification of the Hearing Decision Order 6 months after the action took place and beyond the 90 day time period to request a hearing. At the time the Health Care Coverage Determination Notice was faxed and received by the AHR, the time for requesting a hearing had long since passed. BAM 600 (October 1, 2015) p. 6. The Department's actions and efforts to demonstrate its compliance regarding reprocessing the [REDACTED] application, and providing written notice by faxing notice of the action it took is not compliant with Department policy or the prior Hearing Decision.

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 failed to provide the Claimant's AHR written notice of its eligibility determination as required by Department policy and the ALJ Elkin's [REDACTED] Hearing Decision Order.

DECISION AND ORDER

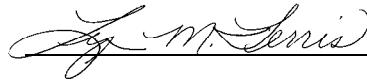
Accordingly, the Department's decision is

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 reprocess Claimant's [REDACTED] MA application with retroactive coverage to July 2013.
2. The Department shall make a determination with regard to Claimant's eligibility for MA coverage for which she is eligible, if any, from [REDACTED] ongoing.

3. The Department shall notify the Claimant AND THE AHR IN WRITING of its decision.



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

Date Signed: **10/19/2015**

Date Mailed: **10/19/2015**

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:

