

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-003258
Issue No.: 2004
Case No.: ██████████
Hearing Date: April 16, 2015
County: Wayne (55-Hamtramck)

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; and Mich Admin Code, R 792.11002. After due notice, a 3-way telephone hearing was held on April 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████
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██████████ Participants on behalf of the Department of Health and Human Services (Department) included ██████████

ISSUE

Did the Department properly process Claimant's application for Medical Assistance (MA) benefits, particularly for benefits under the Medical Savings Program (MSP)?

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 May 5, 2014, Claimant applied for MA benefits.
2. On May 23, 2014, Claimant's application was denied.
3. On June 9, 2014, Claimant's AHR submitted an Application for Health Coverage and Help Paying Costs, DHS-1426, for Claimant via fax at ██████████
4. On February 23, 2015, the AHR filed a request for hearing alleging that the Department had failed to process the June 9, 2014, 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.

As a preliminary matter, the issue of the timeliness of Claimant's hearing request was addressed. Claimant's February 23, 2015, hearing request was not timely filed within 90 days of the Department's May 23, 2014, Notice of Case Action denying Claimant's May 5, 2014, MA application. BAM 600 (April 2015), p. 6. However, at the hearing, the AHR testified that it was not appealing the denial of the May 5, 2014, application. Rather, the AHR alleged that it had submitted a DHS-1426 application seeking MSP benefits for Claimant on June 9, 2014, in which it was identified as Claimant's authorized representative, and that the Department had failed to process that application. Because the AHR is alleging a failure to process, and not disputing the denial of the May 5, 2014, application, the requirement that a request for hearing must be filed within 90 days of the Department notice of case action concerning the action at issue is not applicable to this case. The hearing proceeded to address the merits of Claimant's issue.

An MA application can be processed by the local office serving the client or the authorized representative. BAM 110 (January 2014), p. 16. An application may be filed electronically, which includes by fax. BAM 110, p. 5.

In this case, the AHR testified that it faxed a copy of the DHS-1426 to the Department's Glendale/Trumbull office, the office that serviced Claimant's zip code, on June 9, 2014. In support of its testimony, the AHR presented a fax confirmation showing that 32 pages were faxed to [REDACTED] on June 9, 2014, and the subject line on the cover sheet showed that it concerned "Emailing HUM APPL MI - [REDACTED]". The AHR contended that the 32-page fax consisted of the DHS-1426 and verifications. (Exhibit 1.)

At the hearing, the Department acknowledged that the fax number to which the AHR sent the document was the fax number for the Department's Glendale/Trumbull office but testified that the Glendale/Trumbull office was closed in May 2014 because of

building issues and remained closed as of the hearing date. However, the AHR noted that, as of the hearing date, the Department's website continued to reference the Glendale/Trumbull office as Claimant's local office, based on Claimant's home zip code, and identified the fax number for the Glendale office as [REDACTED]. See http://www.michigan.gov/dhs/0,4562,7-124-5459_5461_7387-288294--,00.html. Therefore, the AHR acted in accordance with policy when it submitted the DHS-1426 for Claimant via fax to the Glendale/Trumbull fax number, and the Department did not act in accordance with Department policy when it failed to process the 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. Register and process Claimant's MA application with a June 9, 2014, effective date;
2. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not from the application date ongoing; and
3. Notify Claimant and the AHR of its decision in writing.



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

Date Signed: **4/22/2015**

Date Mailed: **4/22/2015**

ACE / pf

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]