

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

IN THE MATTER OF:

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Reg. No.: 15-006510
Issue No.: 2004
Case No.: ██████████
Hearing Date: August 17, 2015
County: Wayne-District 57 (Conner)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 August 17, 2015, from Detroit, Michigan. Participants on behalf of Claimant included his wife, ██████████ and his attorney, ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Family Independence Manager, ██████████, Eligibility Specialist, and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's December 4, 2014, application for Medical Assistance (MA) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was a resident of a long term care facility.
2. On December 4, 2014, as a resident of a long term care facility, Claimant submitted an application for MA benefits with a request for retroactive coverage to September 2014. The application also included a request for MA coverage for Claimant's wife, who lived in the family home.
3. The application was not timely processed.
4. On April 17, 2015, Claimant's wife requested a hearing disputing the Department's actions with respect to the 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.

Additionally, when the Department receives an application for assistance, it is to be registered and processed in accordance with Department policies. The date of application is the date the local office receives the required minimum information on an application or the filing form. BAM 110 (July 2014), pp.4-7, 18-19. Retro MA coverage is available back to the first day of the third calendar month prior to the current or most recent application for MA applicants. BAM 115 (July 2014), pp. 10-13.

Once an application is registered, the Department must certify eligibility results for each program requested within the applicable standard of promptness (SOP). The SOP begins the date the department receives an application/filing form, with minimum required information. The SOP is 45 days for an MA application in which disability is not an eligibility factor and 90 days for an application involving MA in which disability is an eligibility factor, with this date being extended in 60 day intervals by deferral by the Medical Review Team. BAM 115, pp. 1,12-19,22-23. The Department is to notify clients in writing of positive and negative actions by generating the appropriate notice of case action, which is printed and mailed centrally from the consolidated print center. A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. After processing an initial application, the Department will notify clients of the approval or denial. BAM 115, pp. 1,18;BAM 220 (October 2014), pp. 1-3.

It was established at the hearing that on December 4, 2014, Claimant submitted a long term care MA application with a request for retroactive MA benefits for himself, as well as a MA application seeking coverage for his wife. Attempts were made by the Department to correct the issues with respect to the processing of Claimant's MA application prior to the hearing, however, as of the hearing date, Claimant's eligibility for the period between December 1, 2014, and March 31, 2015, had not been determined.

The Department and Claimant's attorney stated that despite Claimant being approved for MA under the Ad-Care program for the retro period and approved for MA under the

Extended Care program for the period of April 1, 2015, ongoing, Claimant did not have approved MA coverage under any program from December 1, 2014, to March 31, 2015.

Although the Department presented an eligibility summary in support of its testimony, the Department did not establish that an application or eligibility notice was ever issued to Claimant or his representatives advising of the Department's decision with respect to the application as required by Department policy. (Exhibit C). The Department also could not explain why Claimant's application was not properly or timely processed, other than to state that the application was forwarded to the adult medical district for processing and that the representatives present at the hearing were not assigned to the adult medical district.

With respect to Claimant's wife's MA benefits, the Department testified that as of the hearing date, the issue had been resolved and Claimant's wife had been approved for MA under the Ad-Care program. The Department presented a June 8, 2015, Health Care Coverage Determination Notice advising Claimant that she was eligible for MA for the period of December 1, 2014, ongoing. (Exhibit A). The Department also presented an eligibility summary confirming that Claimant's wife had active and ongoing MA benefits under the Ad-Care program from December 1, 2014, through July 31, 2015, at which time Claimant's wife's MA coverage was transferred to the G2S program. (Exhibit B).

Claimant's attorney confirmed that Claimant's wife had been approved for MA for the time period at issue but stated that because of the Department's untimely processing of the application, Claimant's wife incurred out of pocket medical expenses. This however, is not a negative action warranting a hearing request/decision as Claimant's wife was approved for and determined eligible for MA for the period in dispute. See BAM 600.

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 when it processed Claimant's MA application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Claimant's wife's MA benefits and **REVERSED IN PART** with respect to the processing of Claimant's 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. Register and process Claimant's December 4, 2014, MA application, retroactive to September 2014 to determine Claimant's eligibility for MA benefits under the most beneficial category (BEM 105);
2. Provide Claimant with any MA coverage that he was entitled to receive but did not from September 1, 2014, ongoing; and
3. Notify Claimant and his representatives of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/21/2015**

Date Mailed: **8/21/2015**

ZB / tlf

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:

Category	CC Value
[Redacted]	~0.8
[Redacted]	~0.7
[Redacted]	~0.6
[Redacted]	~0.4
[Redacted]	~1.2
[Redacted]	~1.8
[Redacted]	~2.0
[Redacted]	~0.3
[Redacted]	~0.4
[Redacted]	~0.1