

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-007597
Issue No.: 2007; 5007
Case No.: ██████████
Hearing Date: June 24, 2015
County: WAYNE-DISTRICT 35

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 June 24, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's witness/niece, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly implement and certify a previous Decision and Order regarding an administrative hearing held on February 25, 2015?

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 October 7, 2014, Claimant filed a previous hearing request, protesting the lack of a response on his State Emergency Relief (SER) application and the amount of his Medical Assistance (MA) deductible. See Exhibit A, p. 2.
2. On February 25, 2015, an administrative hearing was held in which the Administrative Law Judge (ALJ) sent a Decision and Order on March 11, 2015 and ordered the Department to: (i) re-register and process Claimant's application for SER benefits; and (ii) re-calculate Claimant's MA deductible and provide Claimant with a budget showing how Claimant's deductible was decided (Reg. No. 14-014073). See Exhibit A, pp. 2-5.

3. On February 25, 2015, Claimant requested a second hearing to compel DHHS to process Claimant's SER application. See Exhibit A, p. 6.
4. On April 23, 2015, a second administrative hearing was held. See Exhibit A, p. 6.
5. On April 28, 2015, the ALJ issued a Decision and Order in which it found Claimant's hearing request was either duplicative or unripe concerning the failure of DHHS to process Claimant's SER application dated August 23, 2014, and the hearing request was dismissed (Reg. No. 15-003512). See Exhibit A, pp. 7-8.
6. The Department acknowledged during the hearing that it failed to process the ALJ's original Decision and Order issued on March 11, 2015 (Reg. No. 14-014073). See Exhibit A, pp. 2-5.
7. On May 6, 2015, Claimant requested a third hearing request to compel DHHS to process the ALJ's originally Decision and Order issued on March 11, 2015. See Exhibit A, p. 10.

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

As a preliminary matter, the undersigned finds Claimant's hearing request timely as he is disputing the Department's failure to process a previous ALJ's Decision and Order issued on March 11, 2015. See BAM 600 (April 2015), pp. 1-6.

All hearing decisions must be recorded in the Department's system, on the Hearing Restore Benefits screen. BAM 600 (January 2015), p. 40. Some hearing decisions require implementation by the local office. BAM 600, p. 40. The Department

implements a Decision and Order within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 40. The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, p. 42. The Department completes and sends the DHS-1843, Administrative Hearing Order Certification, to the Michigan Administrative Hearing System (MAHS) to certify implementation and place a copy of the form in the case file. BAM 600, p. 42.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it failed to properly implement and certify the Decision and Order sent on March 11, 2015 (Reg. No. 14-014073). During the hearing, the Department acknowledged that it failed to process the ALJ's originally Decision and Order issued on March 11, 2015. Thus, the Department is ordered to implement and certify the Decision and Order mailed on March 11, 2015, from the previous administrative hearing (Reg. No. 14-014073), in accordance with Department policy.

DECISION AND ORDER

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 properly implement and certify the Decision and Order sent on March 11, 2015 (Reg. No. 14-014073).

Accordingly, the Department's MA and SER 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. Implement and certify the Decision and Order mailed on March 11, 2015, from the previous administrative hearing (Reg. No. 14-014073), in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/26/2015**

Date Mailed: **6/26/2015**

EJF/tm

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]
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