

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

IN THE MATTER OF:



Reg. No.: 15-009519-RECON
Old Reg No.: 15-009519
Issue Nos.: 2001
Case No.: [REDACTED]
Hearing Date: August 20, 2015
County: Ingham

SUPERVISING ADMINISTRATIVE LAW JUDGE: Marya Nelson-Davis

**ORDER GRANTING REQUEST FOR RECONSIDERATION AND
DECISION AND ORDER OF RECONSIDERATION**

This matter is before the undersigned Supervising Administrative Law Judge pursuant to the Department of Human Services' ("Department") timely Request for Reconsideration of the Hearing Decision generated by the assigned Administrative Law Judge ("ALJ") at the conclusion of the hearing conducted on August 20, 2015, and issued on September 4, 2015, in the above-captioned matter.

The reconsideration process is governed by the Michigan Administrative Code, Rule 792.11015 and applicable policy provisions articulated in the Bridges Administrative Manual ("BAM"), specifically BAM 600, which provide that a reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program that is the basis for the claimant's benefits application, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

Reconsiderations **may** be granted if requested for one of the following reasons:

- Misapplication of manual policy or law in the hearing decision;
- Typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant
- Failure of the Administrative Law Judge to address other relevant issues in the hearing decision.

In the instant case, the Request for Reconsideration asserts the ALJ failed to address the Department failing to issue Verification Checklists under Bridges Eligibility Manual ("BEM") 130; failing to address the Department's failure to obtain any relevant new medical documentation per BEM 160, and the Department's failure to obtain a DHS-49 for physical conditions and a DHS-49D/E for mental health decisions in accord with BEM 815. The AHR has asserted sufficient grounds to grant the request for review. (Request for Rehearing/Reconsideration).

Accordingly, the Request for Reconsideration is GRANTED. The Supervising Administrative Law Judge will review the case file, all exhibits, the hearing record, and applicable statutory and policy provisions.

DECISION AND ORDER OF RECONSIDERATION

ISSUE

Whether the ALJ erred in upholding the Department's denial of retroactive Medical Assistance (Retro-MA) to Claimant.

FINDINGS OF FACT

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

1. Findings of Fact #1 through #7 of Register number 15-009519 dated September 4, 2015 are incorporated by reference.
2. On August 20, 2015, a hearing was held resulting in a Hearing Decision mailed on September 4, 2015, affirming the Department's decision that Claimant was not eligible for Retro-MA for the month of August, 2013. (Hearing Decision Registration number 15-009519).
3. On September 15, 2015, a Request for Rehearing/Reconsideration was received on behalf of the Claimant.

CONCLUSIONS OF LAW

The Medical Assistance ("MA") program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

In this case, Claimant's Authorized Hearing Representative (AHR) requested reconsideration of the ALJ's decision dated September 4, 2015, Register No. 15-009519 on September 15, 2015. In particular, the AHR asserts the ALJ erred in upholding the Department's denial of Claimant's April 14, 2015 Retro-MA application, because the Department did not process the Retro-MA application in accord with Departmental policy.

The AHR states the Department failed to request verifications per BAM 130, and did not make any attempt to obtain any relevant new medical documentation per BAM 160. The AHR specifically points to BAM 815, which instructs the Department how to process previously denied DDS medical determinations.

If a client's previous DDS and/or SSA medical determination was not approved, the client has to prove a new or

worsening condition in order to start the medical determination process again. Request a DHS-49 for physical conditions and a DHS-49-D/E for mental health conditions. Clinical notes from the treating physician that the condition has worsened may also be used. BAM 815, p 8 (7/1/2015).

In response to Claimant's request for Retro-MA for August, 2013, the Department issued a Benefit Notice informing Claimant he was not eligible for Medicaid in August or September, 2013, because the MRT denied these months on December 9, 2013 and does not reconsider months in which a prior decision was made. (Dept Ex. A, pp 4-5).

The ALJ correctly found that if a client's medical determination was not approved the client has to prove a new or worsening condition in order to start the medical determination process again. BAM 815, p 8. However, BAM 815, p 8 goes on to instruct the Department to request a DHS-49 for physical conditions and a DHS-49-D/E which the Department did not do.

In addition, the ALJ incorrectly found that Claimant's request for a hearing was untimely. The ALJ referenced the December, 2013 and December 15, 2014 applications, in finding the June 15, 2015 request for a hearing was untimely. However, Claimant had applied for Retro-MA on April 14, 2015. Therefore, Claimant's June 15, 2015 hearing request was within the ninety day time limit and was timely.

DECISION AND ORDER

This Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Administrative Law Judge erred in upholding the Department's denial of Claimant's request for Retro MA.

Accordingly, it is ORDERED that the Administrative Law Judge's Decision and Order issued on September 4, 2015, and the Departments Retro MA eligibility determination are **REVERSED**. It is further ORDERED that the Department shall comply with the applicable policy and allow Claimant the opportunity to submit verification to establish whether he met the disability criteria retro to August 2015.



Marya Nelson-Davis
Administrative Law Manager
For Nick Lyon, Director
Department of Health and Human Services

Date Mailed: January 6, 2016

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NOTICE: The law provides that within 30 days of receipt of this Decision, the Claimant may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County.

cc:

