

**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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MAHS Reg. No.: 15-015331
Issue No.: 2004
Agency Case No.: ██████████
Hearing Date: October 15, 2015
County: Macomb–District 12

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Petitioner’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 October 15, 2015, from Detroit, Michigan. Petitioner was represented by her attorney, ██████████ ██████████. The Department of Health and Human Services (Department) was represented by Assistant Attorney General, ██████████ who solicited testimony from ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner’s February 2015 retroactive application for Medical Assistance (MA) benefits?

FINDINGS OF FACT

1. On or around February 28, 2015, Petitioner’s attorney submitted a retroactive MA application seeking MA coverage for the month of November 2014. (Exhibit 1)
2. The Department did not process Petitioner’s February 2015 retroactive MA application.
3. On August 24, 2015, Petitioner’s attorney requested a hearing disputing the Department’s failure to process the February 2015 retroactive 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.

As a preliminary matter, although the Department initially asserted that Petitioner's August 24, 2015, hearing request was untimely in light of the February 10, 2015, Health Care Coverage Determination Notice denying Petitioner's previous application for MA benefits, a review of the hearing request established that Petitioner was disputing the Department's failure to process a February 2015 Retroactive MA application and not the February 10, 2015, notice of denial. Thus, the hearing request was timely per Department policy and the hearing proceeded concerning the Department's failure to process Petitioner's February 2015 Retroactive MA application.

To request MA benefits, the DCH -1426 Application for Health Coverage & Help Paying Costs may be used for all MA categories. In addition, for long term care residents, a DHS45-74, Medicaid Application for Nursing Facility Patients may also be used. BAM 110 (July 2014), pp. 1-4. BAM 110 also provides that the DHS-3243, Retroactive (Retro) Medicaid Application, is used **along with** the DHS-4574 or DCH-1426 for retro MA applications. BAM 110, p.4.

Retro MA coverage is available back to the first day of the third calendar month prior to: the current application for FIP and MA applicants and persons applying to be added to the group; the most recent application (**not** renewal) for FIP and MA recipients; for SSI, entitlement to SSI; for department wards; see BEM 117, DEPARTMENT WARDS, TITLE IV-E AND ADOPTION RECIPIENT, the date DHS received the court order for a department ward; and for Title IV-E and special needs adoption assistance recipients; see BEM 117, DEPARTMENT WARDS, TITLE IV-E AND ADOPTION RECIPIENT, entitlement to title IV-E or special needs adoption assistance. BAM 115, p.11.

An application or filing form, whether faxed, mailed or received from the Internet must be registered with the receipt date, if it contains at least the following information: name of applicant; birth date of applicant; address of applicant (unless homeless); and signature of applicant/authorized representative. BAM 105 (January 2015), p.1. If an application or filing form does not contain the minimum information as referenced above, the Department is to send it back to the client along with a DHS-330, Notice of Missing Information, informing the client of the missing information. BAM 105, p. 1. A DHS-1171 Filing Form, however, is not used to register a request for MA benefits and is not acceptable for any category of health care coverage. BAM 105, p. 2; BAM 115 (January 2015), p. 3.

In this case, Petitioner's attorney stated that on or around February 27, 2015, he faxed the Department Petitioner's retro MA application requesting MA coverage for November

2014. Petitioner's attorney stated that attached with the retro MA application, he also submitted documentation including Petitioner's social security card, Medicare Health Insurance Card, pension information, and bank account asset information. (Exhibit 1). Although the Department confirmed that the fax number to which the retro application and documents were sent was a valid Department fax number, the Department testified that it did not have any record of having received Petitioner's February 2015 retro MA application or associated documents.

The Department further testified that even if it had received the February 2015 retro MA application and associated documents, the documents would not have met the minimum requirements for registration and processing, as the retro application without the associated DHS-4574 or DCH-1426 does not constitute a complete application for MA benefits. The Department asserted that the retro application cannot be used to apply for MA benefits alone and that Department policy provides that it must be submitted along with the DHS-4574 or DCH-1426. BAM 110, p.4.

Petitioner's attorney maintained that because the documents submitted with the application contained all of the minimum information needed to register the application, the Department was required to send Petitioner a DHS-330 Notice of Missing information to request any additional or missing information. The Department disputed Petitioner's attorney's position and stated that it had no obligation to send the Notice of Missed Information because the retroactive MA application itself is not considered one of the approved or acceptable types of applications for MA (DHS-4574 or DCH-1426) and it is not a filing form, which cannot be used for MA purposes.

At the hearing, Petitioner's attorney confirmed that he did not submit a DHS-4574 or a DCH-1426 along with the February 2015 retro MA application and there was no evidence presented that Petitioner was a SSI recipient, thus, Petitioner's attorney did not establish that she was eligible for retroactive MA coverage. Furthermore, a review of the DHS-3243 Retroactive Medicaid Application submitted by Petitioner establishes that it does not contain the minimum required information such as birth date and address, therefore, the Department was not obligated to register and process the application, pursuant to BAM 110 and BAM 115. Although Petitioner's attorney stated that he submitted associated documents which detail the missing information, the Department's policy expressly states that to apply for MA benefits, a DHS-4574 or DCH-1426 is required and the DHS-3243 Retro MA Application is to be used **along with** those accepted types of applications.

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 acted in accordance with Department policy when it failed to process Petitioner's February 2015 retroactive MA application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **11/13/2015**

Date Mailed: **11/13/2015**.

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:

