

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-018585
Issue No.: 2004
Agency Case No.: [REDACTED]
Hearing Date: January 6, 2016
County: WAYNE-DISTRICT 31

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 January 6, 2016, from Detroit, Michigan. The Petitioner was represented by the Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) application dated [REDACTED]?

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 [REDACTED], Petitioner's authorized representative (AR) (who is also the AHR and hereinafter referred to as the "AHR") applied for MA benefits on behalf of the Petitioner. See Exhibit A, pp. 16-21.
2. On [REDACTED], the Department sent Petitioner/AHR a Health Care Coverage Supplemental Questionnaire (DHS-1004) (hereinafter referred to as "supplemental questionnaire"), which was due back by [REDACTED]. See Exhibit B, pp. 3-4.

3. On [REDACTED], the AHR provided verification that it e-mailed the Department's worker requesting a 10-day extension and submitted the supplemental questionnaire. See Exhibit 1, pp. 2-5.
4. On [REDACTED] and [REDACTED], the Department's Electronic Case File (ECF) indicated that Petitioner and/or the AHR submitted the supplemental questionnaire. See Exhibit B, p. 6.
5. On [REDACTED], the AHR provided verification that it e-mailed the Department's worker requesting a 10-day extension and submitted the verification of employment. See Exhibit 1, pp. 6-11.
6. On [REDACTED], the AHR provided verification that it e-mailed the Department's worker requesting a 10-day extension. See Exhibit 1, p. 12.
7. On [REDACTED], the Department also sent Petitioner a Verification Checklist (VCL), which requested verification of employment. See Exhibit B, p. 5. The VCL was due back by [REDACTED]. See Exhibit B, p. 5.
8. On [REDACTED], the AHR provided verification that it e-mailed the Department's worker requesting a 10-day extension after a second VCL was received due by [REDACTED]. See Exhibit 1, pp. 1 and 13.
9. On [REDACTED], the Department's ECF also showed that Petitioner and/or the AHR submitted the verification of employment. See Exhibit B, p. 6.
10. On [REDACTED], the AHR provided verification that it e-mailed the Department's worker the verification of employment. See Exhibit 1, pp. 14-17.
11. On [REDACTED], the Department sent only the Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that her MA application was denied effective [REDACTED], based on her failure to submit the supplemental questionnaire by the due date. See Exhibit B, p. 7.
12. The Department failed to send the AHR the determination notice.
13. On [REDACTED], Petitioner's AHR filed a hearing request, protesting the Department's failure to process the MA application. See Exhibit 1, p. 3.

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.

Preliminary matter

On [REDACTED], the Michigan Administrative Hearing System (MAHS) sent Petitioner/AHR a letter indicating that it appears as though the appeal may be untimely concerning the issues that the AHR raised. As such, the first issue presented to the undersigned is to determine if whether the hearing request was timely.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (April 2015 and October 2015), p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6.

The hearing request in this case was obviously not received in the local office within 90 days of the determination notice dated [REDACTED]. See Exhibit B, p. 7. However, the Department failed to send the authorized representative (AR –who is also the AHR in this case) the determination notice. An AR is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (for example, to obtain FAP benefits for the group). BAM 110 (July 2014), p. 8. The AR assumes all the responsibilities of a client. BAM 110, p. 9. AR's must give their name, address, and title or relationship to the client. BAM 110, p. 9. To establish the client's eligibility, they must be familiar enough with the circumstances to complete the application, answer interview questions, and collect needed verifications. BAM 110, p. 9.

The AR clearly applied for the MA benefits on behalf of the Petitioner in this case. See Exhibit A, p. 18. Therefore, the Department must also send correspondence to the AR as they assume all the responsibilities of the client. See BAM 110, p. 9. The AR/AHR would be unable to file a timely hearing request in this instance because they never received the determination notice. Because the Department failed to send the AR a determination notice in this case, the undersigned finds that hearing request is timely.

MA application

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (October 2014 and April 2015), pp. 16-17. The Department registers a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (July 2014 and January 2015), pp. 14-15. For MA applications, the Department certifies the program approval or denial of the application within 45 days. BAM 115, p. 15. However, there are exceptions to these benefits programs for processing times, which are described as follows: 90 days for MA categories in which disability is an eligibility factor. BAM 115, pp. 15-16. The SOP can be extended 60 days from the date of deferral by the Medical Review Team (MRT). BAM 115, p. 15.

Moreover, if the group is ineligible or refuses to cooperate in the application process, the Department must certify the denial within the standard of promptness and also send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, pp. 22-23. Medicaid and Adult Medical Program (AMP) denials receive a DHS-1606, Health Care Coverage Determination Notice. BAM 115, p. 23. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, pp. 23-24. The Department sends the DHS-1606 detailing Medicaid approvals. BAM 115, pp. 23-24.

Based on the foregoing information and evidence, the Department failed to properly process Petitioner's MA application dated [REDACTED]. The evidence presented that the Department failed to send the determination dated [REDACTED] to the AHR at the same time it sent it to the Petitioner. See Exhibit B, p. 7. The AR (who is the AHR) assumes all the responsibilities of a client and the Department failed to send the denial notice to the AR in April of 2015. BAM 110, p. 9. Because the Department failed to send the AR/AHR a denial notice in accordance with Department policy, it failed to properly process the application. See BAM 105, pp. 16-17; BAM 110, pp. 8-9; and BAM 115, pp. 14-15 and 22-23.

It should be noted that the AHR's hearing request is based solely on a failure to process argument because he never received the denial notice. See Exhibit A, p. 2. Therefore, the undersigned will not determine if whether the verifications were submitted timely. As stated above, the Department failed to send the AR a denial notice in accordance with Department policy; thus, the Department will reprocess the MA application dated [REDACTED].

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 process the MA application dated [REDACTED].

Accordingly, the Department's MA 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. Re-register and initiate reprocessing of Petitioner's MA application dated [REDACTED];
2. Begin issuing supplements to Petitioner for any MA benefits she was eligible to receive in accordance with Department policy; and
3. Notify Petitioner and the authorized representative of its decision.



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

Date Signed: **1/7/2016**

Date Mailed: **1/7/2016**

EF / hw

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.

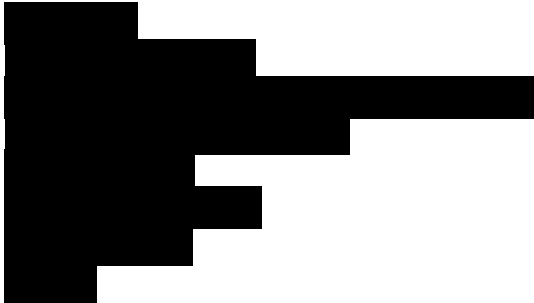
A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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:

A large black rectangular redaction box covers the names and email addresses listed in the CC field.