

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

IN THE MATTER OF:

████████████████████
██
████████████████████

MAHS Reg. No.: 15-020807
Issue No.: 2004
Agency Case No.: ██████████
Hearing Date: January 25, 2016
County: Wayne-District 15

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 January 25, 2016, from Detroit, Michigan. Petitioner was represented by his Authorized Hearing Representative (AHR) ██████████, Appeals Specialist with ██████████. The Department was represented by ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly process Petitioner's October 31, 2013, 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. On October 31, 2013, ██████████ submitted an application for MA benefits. (Exhibit 1)
2. The Department failed to process the October 31, 2013, MA application and failed to notify Petitioner or his ██████████ Representative of the Department's decision with respect to the MA application.
3. On October 13, 2015, ██████████ submitted a hearing request on behalf of Petitioner 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 2013), 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 2013), pp. 9-12.

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 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 (July 2013), pp. 1-3.

In this case, ██████ requested a hearing disputing the Department's actions with respect to an application for MA benefits that it submitted on October 31, 2013, on Petitioner's behalf. (Exhibit 1). The Department representative present for the hearing testified that he does not know whether or not the application was received or whether or not the application was registered and processed. The Department stated that at the time of the application and during the time period at issue, Petitioner had an active MA case and was approved for/received MA under the Adult Medical Program/Adult Benefit Waiver. The Department presented an eligibility summary in support of its testimony.

(Exhibit A). The Department stated that Petitioner's MA case later closed because the client could not be located and that his case was transferred to a different worker.

At the hearing, Petitioner's AHR presented date stamped documentation to establish that it submitted the MA application in question. Attached to the date stamped cover page was the completed application, some medical forms, as Petitioner was seeking disability based MA, as well as email communications between [REDACTED] and the Department regarding the status of the application. (Exhibit 1). The Department stated that there was some information on file that Petitioner also had a representative from [REDACTED] [REDACTED] and that the Department communicated with the [REDACTED] Representative. The Department was unable to establish that it properly processed the October 31, 2013, MA application however, and failed to establish that it properly notified Petitioner's representative of its decision with respect to the application.

BEM 105 provides that persons may qualify under more than one MA category and federal law gives persons the right to the most beneficial category which is considered the category that results in eligibility or the least amount of excess income. BEM 105 (January 2014), p.2. The Department must consider all the MA category options in order for the client's right of choice to be meaningful. BEM 105, p.2. Thus, although Petitioner may have had active MA benefits under the AMP program at the time of the application, the Department was required to process the application and determine Petitioner's eligibility for MA under a disability based MA program.

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 Petitioner's October 31, 2013, MA application.

DECISION AND ORDER

Accordingly, the Department's 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. Register and process Petitioner's October 31, 2013, MA application to determine Petitioner's eligibility for MA benefits under the most beneficial category;

2. Provide Petitioner with any MA coverage that he was entitled to receive but did not from October 1, 2013, ongoing; and
3. Notify Petitioner and his AHR of its decision in writing.



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

Date Signed: **2/19/2016**

Date Mailed: **2/19/2016**

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]