



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 18, 2016
MAHS Docket No.: 16-003512
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 telephone hearing was held on [REDACTED] from Detroit, Michigan. The Petitioner was represented by [REDACTED], of [REDACTED] the Petitioner's Authorized Hearing Representative (AHR). The Petitioner did not appear. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

1. Did the Department properly fail to register the Petitioner's AHR's Medical Assistance (MA) application?
2. Did the Department properly process the Petitioner's AHR's application?

FINDINGS OF FACT

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

1. The Petitioner's AHR, [REDACTED] filed an online application for Medical Assistance on [REDACTED]. The application clearly indicated that the Petitioner had an AHR and contained contact information for the AHR and was signed by the AHR. The application sought Retro MA for [REDACTED] and [REDACTED] for Petitioner and coverage for her two children. Petitioner's Exhibit A and Exhibit 3.

2. The Department never processed the Petitioner's AHR's MA application filed on Petitioner's behalf dated [REDACTED]. Petitioner's Exhibit A and Exhibit 3.
3. A Verification Checklist (VCL) was sent to the Petitioner on [REDACTED], with respect to an MA application filed by the Petitioner on [REDACTED], with an [REDACTED], due date. The Petitioner's [REDACTED], application did not seek retroactive coverage for [REDACTED]. Exhibits 1 and 2.
4. The Petitioner filed a second application on [REDACTED]. The Application did not indicate that Petitioner had an AHR. Exhibit 3.
5. The Department issued a Health Care Coverage Determination Notice on [REDACTED], regarding the application filed by the Petitioner on her own behalf on [REDACTED], for failure to verify information necessary to determine eligibility. The Health Care Coverage Determination Notice was not sent to the AHR nor was the VCL sent to the AHR. Exhibit 2a.
6. On [REDACTED], the Petitioner's AHR filed a timely hearing request on [REDACTED].

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.

In this case, the Department received an online MA application dated [REDACTED], filed on behalf of the Petitioner by her AHR. The Department never registered the application. At the time of the application, the Petitioner's MA application dated [REDACTED], was pending receipt of verifications of employment, which were not received by the Department. The Department denied the Petitioner's application on [REDACTED], effective [REDACTED], due to Petitioner's failure to verify and because no group member is an eligible child. Exhibit 2a. Department policy regarding responsibility to register an application provides:

An application or filing form, with the minimum information, must be registered on Bridges **unless** the client is already active for that program(s); BAM 110 (January 1,

2016), p. 8. In this case the Petitioner's application was filed, but the Petitioner's case was never "active" as she was never found eligible for MA and was ultimately denied MA. Thus, at the time of the filing of the AHR's application, the Department should have registered the [REDACTED], AHR application.

In this case, the Department never registered the AHR's MA online application filed on behalf of the Petitioner. The Petitioner also on her own filed an application, which was filed before the application was filed by the AHR. The Petitioner's application was pending verification at the time of the AHR's application. The AHR's application was filed seven (7) days after Petitioner's application. The AHR's application was never registered by the Department. The application filed by the AHR sought retro MA for [REDACTED] and was signed by the AHR.

The AHR's hearing request contained an Authorization to Represent signed by the Petitioner and was not dated. The Department testified that it had no record of receipt of the Authorization. Petitioner's Exhibit A, p. 4. The AHR application did contain information regarding the identity of the AHR, name, address and phone number and was electronically signed by the AHR; and thus, this information was available to the Department. Exhibit 3. Department policy provides in relevant part:

An authorized representative (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).

The AR assumes all the responsibilities of a client; see BAM 105. BAM 110, (January 1, 2016), p.9.

Medicaid Only

Application may be made on behalf of a client by his spouse, parent, legal guardian, adult child, stepchild, core relative or any other person provided the person is at least age 18 or married. If this person is not a spouse, parent, legal guardian, adult child, stepchild, or core relative, the person must have authorization to act on behalf of the client, by the client, client's spouse, parent(s) or legal guardian. p.10.

When an assistance application is received in the local office without the applicant's signature or without a signed document authorizing someone to act on the applicant's behalf you must do the following:

- Register the application as a request if it contains a signature.

- Send a DHS-330, Notice of Missing Information, to the individual explaining the need for a valid signature. The signature page of the application may be copied and sent to the agency or individual who filled out the application with the notice.
- Allow 10 days for a response. You cannot deny an application due to incompleteness until 10 calendar days from the date of your initial request in writing to the applicant to complete the application form or supply missing information, or until the initial scheduled interview.
- Record the date the application or filing form with the minimum information is received. The application must be registered and disposed of on Bridges, using the receipt date as the application date. BAM 110 (January 1, 2016) p. 10-11.

An authorized representative must be one of the following:

- Designated in writing by the individual.

All applications, redeterminations, referrals, initial asset assessments, member adds and program adds must be registered on Bridges. p. 19

Exception: Do **not** register the MSA-2565-C as a request if the person is one of the following:

- An automatically eligible newborn; see BEM 145.
- An active MA beneficiary.
- A pending MA or FIP applicant.

Based upon Department policy and the evidence presented, the Department was required to register the [REDACTED], AHR application and do the following. Assuming the Department did not receive the Authorization to represent and given the fact the one presented by the AHR was incomplete, the Department was required to send a Notice of Missing Information and was required to register the application pending receipt of missing information. Having not done so, the Department did not comply with Department policy; and thus, the AHR's [REDACTED], MA application must be registered and processed.

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 register and process the Petitioner's AHR's [REDACTED], application for MA.

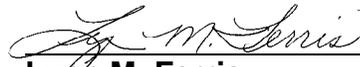
DECISION AND ORDER

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. The Department shall register and process the Petitioner's AHR's [REDACTED], [REDACTED] MA application for retro MA for [REDACTED].
2. The Department shall provide the Petitioner's AHR notice of all written communications and notices issued as a result of the registration and processing.

LMF/jaf



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

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

Counsel for Petitioner

[REDACTED]

DHHS

[REDACTED]

Petitioner

[REDACTED]

cc:

[REDACTED]