

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 200728016
Issue No: 2006
[REDACTED]
Hearing Date: April 26, 2011
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a 3-way telephone hearing was held on April 26, 2011. Claimant did not appear. Claimant was represented at the administrative hearing by [REDACTED], a collection agency.

ISSUE

Did the DHS properly deny claimant's December 8, 2006 MA and SDA application for failure to submit to a psychiatric evaluation?

FINDINGS OF FACT

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

1. On December 8, 2006, claimant applied for MA and SDA. Claimant was represented by [REDACTED]
2. On February 20, 2007, MRT deferred requesting an internist exam and a psychiatric exam.
3. Claimant attended the internist exam on April 9, 2007. On that day claimant contacted the department and stated she had her own psychiatrist and would prefer to have updated psychiatric notes from her treating psychiatrist instead of subjecting herself to an independent psychiatric evaluation.

4. On April 23, 2007, MRT reviewed the internist exam wherein claimant had indicated as follows:

Case was also deferred for a mental status exam. She states on 4/09 internist exam that she has a treating psychiatrist. Please ask her who that is and get copies of all psychiatric records through 11/06 hospitalization. 4/23/07. Exhibit 9.
5. Instead of obtaining the updated psychiatric reports, on May 2, 2007, the DHS denied claimant for failure to provide required verification. At the administrative hearing, the department indicated the required verification was claimant's failure to undergo an independent psychiatric exam.
6. On June 8, 2007, claimant's AHR filed a hearing request.
7. On August 16, 2007, SOAHR received [REDACTED] hearing packet regarding this matter.
8. SOAHR subsequently scheduled the hearing with the county indicating claimant was a no show. Due to the fact that it was scheduled to be a 3-way telephone conference call, good cause was shown. Instead of reinstating the case and scheduling a hearing, a manager of the SOAHR office issued an Order of Reconsideration thoroughly discussing the case, finding good cause, and reinstating the case on January 30, 2008. SOAHR did not reschedule the case until April 5, 2011 for the hearing held hearing on April 26, 2011. The reason for the delay is unknown.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the BRIDGES Administrative Manual (BAM), the BRIDGES Eligibility Manual (BEM) and the BRIDGES Reference Manual (BRM).

General verification policy and procedure states in part:

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- . Determine eligibility.
- . Calculate the level of benefits.
- . Protect client rights. BAM, Item 105, p. 1.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. BAM, Item 105, p. 5.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. BAM, Item 105, p. 5.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. BAM, Item 105, p. 7.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients

who are illiterate, disabled or **not** fluent in English. BAM, Item 105, p. 9.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. BAM, Item 130, p. 4.

VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY

All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- . required by policy. BEM items specify which factors and under what circumstances verification is required.

- . required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- . information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. BAM, Item 130, p. 1.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

The client must obtain required verification, but you must assist if they need and request help. BAM, Item 130, p. 2.

In this case, the undersigned Administrative Law Judge noticed the MRT Exhibit 9 statement. Evidently, neither the department nor the rep was familiar with this document even though it was made part of the evidentiary packet. Under the above cited policy and procedure, this Administrative Law Judge finds that this statement clearly indicates to the department that rather than having claimant undergo an independent evaluation that MRT would accept updated psychiatric records from claimant's treating psychiatrist. This note was written April 23, 2007. The department instead turned around on May 2, 2007 and denied claimant's case.

The parties agreed at the administrative hearing that the department will have 30 days to check claimant's file to see if in fact the psychiatric updated notes through 11/06 are in claimant's file. If not, the department agreed to notify ██████ in writing that they are not available and ██████ will be given an opportunity to obtain the updated psychiatric case notes through 11/06.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were incorrect.

Accordingly, the department's denial is REVERSED.

The department is Ordered to reinstate claimant's MA and SDA application of December 8, 2006. The department shall have 30 days to attempt to locate claimant's updated psychiatric records through 11/06 in claimant's file. If the department cannot locate those records, the department shall notify ██████ in writing and give ██████ an opportunity to collect those records under general verification policy and procedure. Once ██████ obtains those records, the department shall process this case in accordance with its usual policy and procedure by sending the case back to MRT. The

undersigned Administrative Law Judge WILL NOT retain continuing jurisdiction. Claimant shall have any rights to a hearing as indicated on standard department notices.

/S/

Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 12, 2011

Date Mailed: May 12, 2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JGS/db

cc:

