

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201041916
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 2, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on August 2, 2010.

ISSUE

Was the claimant's AMP case properly placed into closure for a failure to provide a redetermination form and required verifications?

FINDINGS OF FACT

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

- (1) Claimant was an AMP recipient in Wayne County.
- (2) On January 12, 2010, claimant was sent a DHS-1010, Redetermination application, and scheduled for an interview on February 3, 2010, in order to make a redetermination of his AMP.
- (3) Claimant never received this notice or the required forms.

- (4) Claimant did not turn in required verifications or the redetermination form.
- (5) On March 19, 2010, claimant's AMP case was placed into closure for a failure to return her redetermination form and submit required verifications.
- (6) Claimant did not receive this notice.
- (7) On June 24, 2010, after he was made aware that his AMP case had been closed, claimant filed a request for hearing.

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) and Reference Tables (RFT).

A DHS-1010, Redetermination, must be completed when eligibility is determined. BAM 210. An application is considered incomplete until it contains enough information to determine eligibility. BAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. BAM 130. All sources of income must be verified. BEM 500.

In the current case, the Department contends that claimant did not return his redetermination form or provide verifications, as required by the regulations, and was

therefore cut-off of her benefits because the Department was unable to determine eligibility.

Claimant contends that he did not receive the redetermination or the request for verifications, and therefore, could not have returned them as requested.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

However, at the hearing, claimant testified that he never received the forms, nor the notice of negative action in question. Claimant also testified that he had had trouble receiving his mail. Furthermore, claimant's hearing request was filed on June 24th, several months after the fact; this was because claimant was unaware that his case had been closed. Claimant requested a hearing as soon as he was made aware of the situation.

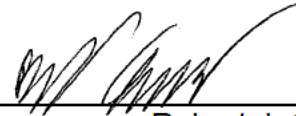
The Administrative Law Judge has determined that the claimant is credible, and thus finds his statement credible that he did not receive the redetermination packet. Furthermore, the claimant's demeanor, manner, and testimony at the hearing painted a picture of credibility, and the undersigned, as the principal finder of fact, is willing to accept claimant's version of events. Claimant's timing of his hearing request also lends credibility to his testimony. Claimant further testified that he has had difficulty in receiving other packets. Therefore, for these reasons, the undersigned finds that claimant did not receive his redetermination packet; the Department should re-send the packet, if it finds that it still needs a completed redetermination packet.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to place claimant's assistance case into closure was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

The Department is ORDERED to reinstate claimant's AMP benefits retroactive to the date of negative action, and issue any supplemental benefits, retroactive to that date of negative action, to which the claimant is otherwise entitled.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/14/10

Date Mailed: 12/20/10

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.

RJC/dj

cc:

