

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

IN THE MATTER OF:

[REDACTED]
2

Reg. No:

2010-44524

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 telephone hearing was held on December 14, 2010. The claimant appeared and provided testimony, by and through his representative, [REDACTED]

ISSUE

Did the department properly deny the claimant's Medical Assistance (MA) and retroactive MA application for failure to appear for a Medical Review Team (MRT) required examination?

FINDINGS OF FACT

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

1. The claimant's representative submitted an application for MA and retro MA on February 27, 2009.
2. On September 25, 2009, the medical records were submitted to MRT for evaluation. On October 1, 2009, MRT deferred their decision and requested the claimant undergo an internist examination and a psychological examination. (Department Exhibit 51)
3. On November 20, 2009, the claimant underwent the psychological evaluation requested by MRT. (Department Exhibit 28 – 31)

4. On October 6, 2009, the claimant was mailed a Medical Appointment Confirmation Notice (DHS-800), scheduling an examination for October 19, 2009. The claimant was a no call/no show for the appointment. (Department Exhibit 24)
5. On October 19, 2009, the claimant's representative indicated that the claimant did not attend the appointment and requested that it be rescheduled. (Department Exhibit 26)
6. The claimant was mailed a Medical Appointment Confirmation Notice (DHS-800) on January 4, 2010, rescheduling the examination for January 14, 2010. The claimant was a no call/no show again. (Department Exhibit 23)
7. On March 1, 2010, the department again submitted all medical information to MRT. On March 10, 2010, MRT again deferred the decision and requested an internist examination. (Department Exhibit 21)
8. On March 15, 2010, the claimant was mailed a Medical Appointment Confirmation Notice (DHS-800), scheduling an examination for March 31, 2010. The claimant was again a no call/no show. (Department Exhibit 20)
9. On March 31, 2010, the claimant's representative indicated that the claimant was unable to attend his appointment and requested it be rescheduled. (Department Exhibit 19)
10. On April 20, 2010, the department denied the claimant's MA and retro MA application for failure to attend the required appointment. (Department Exhibit 1)
11. On July 19, 2010, the claimant's representative submitted a hearing request.

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 Program Reference Manual (PRM).

Department policy states:

MRT/SRT Referrals

A client **not** eligible for RSDI based on disability or blindness must provide evidence of his disability or blindness.

Do **all** of the following to make a referral to the MRT/SRT:

- Obtain evidence of the impairment (e.g., DHS-49, DHS-49-D or equivalent medical evidence/documentation).
- Complete a DHS-49-B, Social Summary.
- Obtain a DHS-49-F, Medical-Social Questionnaire, completed by the client.
- Obtain **optional** form DHS-49-G, Activities of Daily Living, completed by the client.
- Forward the medical evidence, DHS-49-B, DHS-49-F and DHS-49-G (optional) to the
 - MRT, for claims of disability, **or**
 - SRT, for claims of blindness.

Note: The MRT/SRT will determine disability/blindness for retro months even if retro MA is **not** requested by the client at application. If the client subsequently applies for retro MA, refer to the DHS-49-A, Medical/Social Certification, for the disability determination for those retro months.

BAM 815 contains the procedures you must follow to process the medical determination. Do **not** refer the client for a medical determination if the case contains a valid MRT/SRT certification.

Valid means **all** of the following:

- SSA's determination that the client is **not** disabled or blind for SSI purposes is **not final** as defined in this item.
- The medical review is **not** due or past due.
- The client continues to be unable to engage in substantial gainful activity.
- The client's condition is the same.

Client Cooperation

The client is responsible for providing evidence needed to prove disability or blindness. However, you must assist the customer when they need your help to obtain it. Such help includes the following:

- Scheduling medical exam appointments
- Paying for medical evidence and medical transportation

A client who refuses or fails to submit to an exam necessary to determine disability or blindness **cannot** be determined disabled or blind and you should deny the application or close the case. It is not necessary to return the medical evidence to MRT for another decision in this instance. BEM 260.

In this case, the claimant is disputing the denial of his MA and retro MA application for failure to attend the required examination. It is not disputed that the department scheduled three different examination appointments for the claimant and that the claimant did not attend any of these examinations. The claimant's representative provided documentation to the department on April 9, 2010, showing the claimant was hospitalized on April 1, 2010. No other documentation was presented to excuse the claimant from his appointments.

Department policy indicates that a client who refuses or fails to submit to an exam necessary to determine disability or blindness cannot be determined disabled or blind and directs the department to deny the application or close the case. BEM 260. MRT twice determined this examination necessary to determine disability. The department gave the claimant three opportunities to attend the appointment, which appears more than reasonable. The claimant was a no call/no show to each of these appointments. Thus, the department followed policy when they denied the claimant's application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the claimant's Medical Assistance (MA) and retroactive MA application for failure to appear for a Medical Review Team (MRT) required examination.

Accordingly, the department's determination is UPHELD. SO ORDERED.

_____/s/_____
Suzanne L. Morris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 2/2/11

Date Mailed: 2/2/11

