

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2010-8883
Issue No: 2000; 4000
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 8, 2010
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 claimant's request for a hearing. After due notice, an in-person hearing was held on 9/8/2010. Claimant was represented at the Administrative Hearing by [REDACTED]

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's 8/24/09 application for Medical Assistance (MA-P)?

FINDINGS OF FACT

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

(1) At all relevant times during the issue herein, claimant was an AMP recipient and beneficiary of the welfare program under the Michigan DHS.

(2) On 8/24/09 claimant completed an application. Claimant checked off SDA as a program. Claimant indicated that he had a SSI application pending with SSA.

(3) Claimant alleges disability in part on a mental/psychological impairment which disability affects his cognitive abilities.

(4) On 8/28/09 the DHS denied on the grounds that claimant checked off a portion of the form indicating that no one in the household was disabled.

(5) The department failed to submit the application as part of the evidentiary packet.

(6) The department failed to forward a copy of the application to the undersigned Administrative Law Judge subsequent to the hearing as agreed upon.

(7) On 9/15/09 claimant filed a hearing request.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

General verification policy and procedure states in part:

Assisting the Client...All Programs

The local office must assist clients who ask for help in completing forms...or gathering verifications. Partial sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM Item 105, P. 10.

In this case, the department argued that it assumed that claimant was not interested in disability on the grounds that many clients apply for SDA as they are just interested in the cash and are not disabled. The department indicated that it makes this assumption very often in cases where a client is already in receipt of AMP.

The department argued that in support of its position policy found in BEM Items 210, 214, and 630 were applicable. However, the department did not know what 630 entailed. Regarding the other sections, the department cited portions of BEM Item 261 which states in part that an individual is disabled for SDA purposes if: "is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability." This ALJ does not understand how this section is applicable to the facts herein as claimant was applying for SDA and it is this application which is at issue. In other words, the application would determine whether or not claimant would be certified or not.

With regards to the claimant, the department making assumptions as to the intent of a client, this ALJ finds that the department did not make a correct assumption. While this ALJ understands that workers must make as many assumptions or shortcuts as possible to make their 600-700 caseload as efficient in processing as humanly possible, in this case, the assumption was not correct and not consistent with policy.

In this case, this ALJ finds that claimant's mental/psychological impairment suffices to meet the type of disability referred to in BAM Item 105 above. Moreover, the department has a duty to assist the client in applying for all potential programs for which he/she may be eligible:

All programs...provide specific eligibility information on any program they are interested. BAM Item 105, P. 10.

Under the above-cited authority, this ALJ finds that under general verification policy and procedure, claimant is entitled to have his 8/24/09 application reregistered for MA and SDA and have the application sent to MRT for processing. The department shall also obtain updated medical documentation.

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 for the reasons set forth herein, and,

Accordingly, the department's denial is hereby REVERSED.

The department is ORDERED to reinstate claimant's 8/24/09 application and reregister the application for both the MA-P and SDA programs. The department is ORDERED to collect any current medical documentation and process/forward the case to the MRT for review. Should claimant receive an adverse decision from the MRT, claimant shall have a right to a hearing in the future pursuant to the hearing rights given on any notice of disposition in the future. IT IS SO ORDERED.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 10, 2010

Date Mailed: September 10, 2010

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 mailing date of the rehearing decision.

JS/vc

cc:

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