

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: 2010-13850

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 27, 2010

Manistee County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 January 27, 2010. Claimant personally appeared and testified.

ISSUE

Did the department properly deny TMA-Plus (transitional Medicaid plus) to claimant based on her purported failure to cooperate with the premium payment rules?

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 resides in [REDACTED], at [REDACTED],

[REDACTED]

(2) Claimant was an ongoing TMA recipient through July 2009 (Department Exhibit #1 and #3).

(3) On June 2, 2009, the department's TMA-plus liaison from the Department of Community Health (DCH) sent claimant a letter advising her a [REDACTED] monthly premium payment was required to initiate this coverage, and also, notifying her this payment must be postmarked on or before July 2, 2009 (Department Exhibit #1).

(4) Between January and August 2009, claimant did not receive several pieces of business mail delivered to her address-of-record because unscrupulous residents renting the house across the street were taking it from her mailbox.

(5) Specifically, these thefts included court papers from claimant's son's biological father and a child support check he mailed there, as well as claimant's new bank debit card and its subsequently mailed pin number.

(6) Claimant also discovered this debit card (now cancelled) had been used to purchase from the Internet a monthly weight loss supplement she never ordered.

(7) Claimant reported these thefts to the U. S. Post Office, the child support check home bank and her debit card bank (for stop payment orders).

(8) Claimant's mailbox thefts stopped when the neighbors got evicted; however, claimant did not mail her [REDACTED] TMA-Plus monthly premium payment by the due date because she never received the June 2, 2009 letter referenced in Finding of Fact #3 above.

(9) This caused the local office to deny TMA-Plus coverage.

(10) The department did, however, place claimant's case in a standard MA category, but this move came with a [REDACTED] monthly deductible, as opposed to a [REDACTED] monthly TMA-Plus premium payment.

(11) On December 2, 2009, claimant filed a hearing request after she made repeated DCH inquiries, during which the department's liaison advised claimant to do so.

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

The general TMA-Plus states:

### **TMAP**

TMA-Plus is a state-funded medical program.

TMA-Plus is available to families after Transitional MA (TMA) ends to assist families who are unable to purchase employer-sponsored health care.

TMA-Plus offers a way to extend medical coverage through a premium-payment plan

Each local office must designate a TMA-Plus contact person to assist in coordination and act as a liaison with the Department of Community Health (DCH)(BEM Item 647, pg 1).

### **PREMIUM PAYMENTS**

The monthly premium payment changes at 12, 18 and 24 months. After two years the premium remains constant. The following are monthly TMA-Plus premiums:

- \$50.00 per person for the first year.
- \$83.00 per person for the next six months.
- \$110.00 per person thereafter (BEM Item 647, pg 5).

Additionally, the department's specific client cooperation policies state:

## **LOCAL OFFICE RESPONSIBILITIES**

### **All Programs**

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees. PAM, Item 105, p. 8.

## **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. PAM, Item 105, p. 1.

Lastly, Michigan case law is well-settled regarding disputes about mailing of business letters. It states: 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).

At claimant's hearing on January 27, 2010, she established, through detailed, consistent and credible testimony, she did not receive the DCH letter notifying her of the requirement to submit a [REDACTED] premium payment because her mail delivery during that period was disrupted by multiple thefts. Put simply, claimant's right to acquire TMA-Plus coverage must be protected because she was a victim of circumstances beyond her control. As such, the department's denial of TMA-Plus cannot be upheld on the stated grounds.

## **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in denying TMA-Plus coverage to claimant.

Accordingly, this case is returned to the local office for all action necessary to open a TMA-Plus case; specifically, issuing written notice to claimant stating when her first premium payment is due to start coverage as early as possible under the department's policy. **SO**

**ORDERED.**

/s/ \_\_\_\_\_  
Marlene B. Magyar  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: February 1, 2010

Date Mailed: February 2, 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 receipt 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.

MBM/db

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