

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: 2010-33626

Issue No: 2001

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 21, 2010

Gratiot County DHS

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 September 21, 2010. The claimant personally appeared and provided testimony, along with his girlfriend, [REDACTED].

ISSUE

Did the department properly close the claimant's Adult Medical Program (AMP) benefits for failure to return verification materials in March, 2010?

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 was receiving AMP benefits when his case came due for review.

The claimant was mailed a Redetermination form on December 15, 2009, due back to the department by January 4, 2010. (Department Exhibit 3 - 6)

2. The claimant returned the completed form timely to the department. On the Redetermination Form, the claimant indicated “none” to the question of savings account assets.

(Department Exhibit 13)

3. The department mailed the claimant a Notice of Case Action (DHS-1605) on January 30, 2010, informing the claimant that the AMP case would close effective March 1, 2010. (Department Exhibit 7 - 10)

4. The claimant submitted a hearing request on February 10, 2010.

CONCLUSIONS OF LAW

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM, Item 105, p. 5.

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.

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

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.

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

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. BAM, Item 130, p. 4.

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.

The Redetermination form allows the department to evaluate continuing eligibility for any programs the claimant is receiving. The claimant did complete and return the Redetermination Form within department time limits. The department testified that they closed the claimant's case because he failed to verify that he no longer had a savings account.

The section of the form that the department points to is the "asset" section. The directions indicate to "[r]eport all assets. This may include: bank accounts, land, cars, other vehicles, boats, life insurance, investments, lawsuit settlements, trusts, annuities or any other property (including in trust). Report if anyone has bought, sold, transferred, gave away or received any asset. Provide proof with your name on it." The claimant responded to this section of the form by indicating "none" under savings accounts.

The department testified that the claimant had previously had a savings account, so he was required to provide proof that he no longer had the account. However, the language of the form indicates to provide proof if an asset is bought, sold, transferred, gave away or received. There is no language requiring the claimant to provide proof that an account was closed.

However, if the department did wish to have the claimant provide proof of the closure of the account, department policy instructs they use a Verification Checklist (DHS-3503) and give the claimant ten days to provide the requested information. BAM 130. Department policy instructs the department to tell the client what verification is required, how to obtain it, and the

due date by using the Verification Checklist (DHS-3503). BAM 130. The department did not request any verifications from the claimant by using the Verification Checklist.

Thus, this Administrative Law Judge finds that the department erred when closing the claimant's case for failure to provide verifications. However, it is noted that the claimant testified that he had been in the Gratiot County jail for ten months, which would have made him ineligible to receive AMP benefits (see BEM 265). Thus, the department shall redetermine the claimant's eligibility, considering the testimony from this hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed the claimant's AMP benefits for failure to return verifications.

Accordingly, the department's actions are REVERSED. The department shall:

1. Redetermine the claimant's AMP eligibility.
2. Issue the claimant written notice informing him of the new eligibility determination.

SO ORDERED.

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

Date Signed: October 20, 2010

Date Mailed: October 22, 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 receipt date of the rehearing decision.

SLM [REDACTED]

cc:

[REDACTED]