

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: 2010-43710
Issue No: 2001
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 2, 2010
Allegan 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 2, 2010. The claimant personally appeared and provided testimony, along with Marguerite Kingstad, an Allegan County Mental Health Case Worker.

ISSUE

Did the department properly close the claimant's Adult Medical Program (AMP) benefits for failure to return the redetermination materials in April, 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 her case came due for review.

The claimant was mailed a Redetermination form on February 9, 2010, due back to the department by March 1, 2010. (Department Exhibit 1 - 4)

2. The claimant did not return the form.

3. The department mailed the claimant a Notice of Case Action (DHS-1605) on April 8, 2010, informing the claimant that the AMP case would close effective May 1, 2010. (Department Exhibit 5 – 7)

4. The claimant submitted a hearing request on April 16, 2010 and the department reinstated the benefits pending the administrative hearing.

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.

In this case, the claimant is disputing the closure of her AMP benefits. The department mailed the claimant the Redetermination form (DHS-1010) on February 9, 2010. At that time, the claimant was homeless and was using an acquaintance's home address for her mail delivery. The claimant verified that the department did use the proper mailing address when the Redetermination form was mailed. The department reported that the Redetermination form was not returned to sender.

The Redetermination form allows the department to evaluate continuing eligibility for any programs the claimant is receiving. The form states that the client "must complete, sign, and date this form, and return it with all proofs by bringing it with you to your appointment, returning by mail or bringing it to DHS by the due date listed above." The form goes on to states that if the client does "NOT return this form and all of the required proofs by the due date, your benefits may be cancelled or reduced." The completed form was due back to the department by March 1, 2010.

The claimant testified that she never received the form to complete and return to the office. The claimant further testified that she moved on March 2, 2010 and reported the change of address to the department a few days later. However, when the Redetermination form was mailed, the claimant was using the [REDACTED], which is where the department mailed the form. 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). The claimant

did not move until March 2, 2010, after the Redetermination form was mailed to her (February 9, 2010). Thus, the department had no indication that the claimant would not get the mail, as it was properly addressed to the residence the claimant had requested her mail be sent to.

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility, which includes completion of the necessary forms. BAM 105. When the department did not receive the Redetermination form and verifications by the due date, the department had no choice but to close the claimant's CDC benefits. This Administrative Law Judge is unable to find that the department did not follow policy in their actions.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed the claimant's AMP benefits for failure to return the redetermination materials in April, 2010.

Accordingly, the department's actions are UPHeld. SO ORDERED.

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

Date Signed: September 8, 2010

Date Mailed: September 9, 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.

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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/om

cc:

