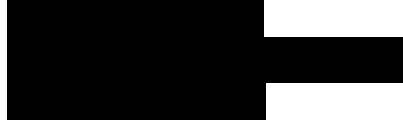


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201048823
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 3, 2010
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on November 3, 2010.

ISSUE

Did the Department properly deny claimant's MA-P application?

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 applied for MA-P in Oakland County.
- (2) Claimant was mailed a verification checklist on May 8, 2010, requesting medical documentation.
- (3) Claimant returned a DHS-49F, a DHS-1555, and a DHS-3975.
- (4) Claimant should have filled out a DHS-49B as part of the application process.
- (5) Claimant did not return any other documentation.

- (6) DHS did not forward claimant's information to MRT, and denied claimant's case for failing to return required verifications on June 8, 2010.
- (7) Claimant requested a hearing on July 1, 2010.

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 Bridges Reference Manual (BRM) and Reference Tables (RFT).

BAM 815 lays out the process of gathering medical information. It should be noted that BAM 815 only requires claimants to complete a DHS-49F and a DHS-1555. Any medical determinations are to be made by MRT. BEM 260.

The Department stated, at hearing, that claimant had submitted insufficient medical evidence and therefore had his application denied. A determination of insufficient medical evidence constitutes a medical determination, which can only be made by MRT. It is not up for claimant's caseworker to make a medical determination; claimant's caseworker is only responsible for gathering medical evidence and forwarding that evidence to MRT. If there is insufficient evidence to make a determination, then MRT can make that ruling.

Per BAM 815, the only document claimant is required to return is the DHS-49F and a DHS-1555. Claimant's caseworker is to have claimant fill out a DHS-1555, and request any other records. The only time a DHS representative may deny a case

without forwarding the information to MRT is when a claimant fails to submit to a requested medical exam. BEM 260. Furthermore, according to a plain reading of BEM 260, the only forms required to start an MRT determination are a DHS 49-B and F. If there is no evidence of impairment, MRT will rule accordingly. If MRT wants more evidence, MRT is capable of requesting and gathering that evidence themselves.

What is clear is that under no uncertain terms may claimant's caseworker deny claimant's case for insufficient medical evidence or a failure to return medical evidence without a MRT determination. Such a ruling constitutes a medical determination and would unfairly discriminate against any claimant that had no doctors or medical evidence in the first place.

BAM 815 and BEM 260 expressly lay out a process for a claimant to be sent to exams in order to gather medical evidence when there is a dearth of said evidence; therefore, no reading of those policies can be said to require a claimant to turn in medical evidence, especially when the Department, with a DHS-1555 in hand, can just as easily request the documentation itself.

In the current case, claimant's caseworker made a medical determination by stating that claimant had turned in insufficient medical evidence; there is no policy that allows for a caseworker to make a medical determination, and therefore, the Department must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was incorrect when it denied claimant's MA-P application.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to process claimant's MA application, per the rules found in BAM 815, retroactive to the date of application.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/19/10

Date Mailed: 11/22/10

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.

RJC/dj

cc:

