

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-16792
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: March 16, 2011
DHS County: Wayne (82-82)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on March 16, 2011. Claimant did not appear. [REDACTED] Claimant's Legal Guardian, appeared and testified on behalf of Claimant. [REDACTED], and [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS processed Claimant's Medical Assistance (MA or Medicaid) application properly?

FINDINGS OF FACT

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

1. On September 1, 2010 Claimant applied for MA benefits with DHS. DHS denied the application for lack of verification.
2. On or about January 5, 2011, Claimant applied for MA benefits with three months retroactive coverage.
3. On January 5, 2011, DHS granted Claimant's MA application with three months retroactive coverage.

4. DHS failed to inform Claimant she had been approved for Medicaid and never sent her a notice or a MI Health Card which would allow her to use Medicaid coverage.
5. Since October 1, 2010, Claimant has incurred medical expenses which may be covered by her MA coverage.
6. On January 19, 2011, Claimant filed a hearing request with DHS.
7. At the Administrative Hearing on March 16, 2011, the Claimant testified that now that she understood she was approved for MA effective October 1, 2010, she no longer wished to pursue the September 1, 2010, application.

CONCLUSIONS OF LAW

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. DHS administers the MA program pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The administrative manuals are the policies and procedures DHS officially created for its own use. While the DHS manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

Under BAM Item 600, clients have the right to contest any DHS decision affecting eligibility or benefit levels whenever they believe the decision is illegal. DHS provides an Administrative Hearing to review the decision and determine if it is appropriate. DHS policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when DHS receives a hearing request and continue through the day of the hearing.

I find that BAM 105 is the applicable Item in this case. BAM 105 requires DHS to administer its programs in a responsible manner to protect clients' rights.

At the outset of BAM 105 it states:

RIGHTS AND RESPONSIBILITIES

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.

BAM 105, p. 1 (bold print in original).

I read this opening portion of BAM 105 to mean that DHS must fulfill these duties, and it is subject to judicial review of its fulfillment of these duties. If it is found that DHS failed in any duty to the client, it has committed error.

In addition, BAM 105 states that the client must cooperate with DHS. On page 5, it states:

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. See Refusal to Cooperate Penalties in this section.... Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. *Id.*, p. 5.

Applying BAM 105 to this case, I find and determine that Claimant has cooperated with DHS, but DHS failed to protect client rights in that it approved MA but did not notify Claimant or issue her an MA card. I find and conclude that DHS committed error in this case and a remedy is appropriate.

Based on my findings of fact and conclusions of law, I determine and decide that DHS is REVERSED in this case. IT IS ORDERED that DHS shall notify Claimant in a Notice of Case Action or other document, that her MA application was approved on January 11, 2011, and process the approved application, providing Claimant with the proper MI Health card for her use. IT IS ORDERED that because Claimant's MA coverage is effective retroactive to October 1, 2010, DHS shall review and process any and all medical expense receipts incurred by Claimant since October 1, 2010, and reimburse Claimant for all appropriate health care covered by MA. This will be accomplished in accordance with DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law and the stipulated agreement of the parties, states that DHS is REVERSED. IT IS HEREBY ORDERED that DHS shall activate Claimant's approved application, notify her in writing of her MA coverage, process all medical expense receipts provided by Claimant from October 1, 2010, to the present, and reimburse her for all covered expenses that she paid out of her own pocket. DHS shall take all actions in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 24, 2011

Date Mailed: March 24, 2011

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.

JL/pf

cc:

