

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No: 201118565
Issue No: 2000
Case No: [REDACTED]
Hearing Date: May 17, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: **Kandra Robbins**

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Claimant's request for hearing. After due notice, a [telephone](#) conference hearing was held on [May 17, 2011](#). The claimant was represented by Michael Bowman, his authorized hearing representative.

ISSUE

Did the department properly determine claimant's eligibility for Medical Assistance (MA) and Retro MA?

FINDINGS OF FACT

This Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimant submitted an application for MA and retro MA on January 19, 2010. (Hearing Summary).
2. The Claimant's application was referred to the Medical Review Team (MRT). The MRT requested an examination with an Internist.
3. The claimant was sent a DHS 800 Medical Appointment Confirmation Notice on February 2, 2010, for an appointment on March 2, 2010. (Department Exhibit 1).
4. On June 27, 2010, the department confirmed that the claimant did not attend the appointment.
5. The claimant's application for MA was denied.

6. The claimant was approved for Retirement, Survivor, and Disability, Insurance (RSDI) with a disability onset date of February 1, 2010.
7. The claimant submitted a second application for MA based on disability and was approved on August 1, 2010.
8. On August 25, 2010, the department received the claimant's Request for Hearing protesting the department's determination of his MA determination.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (BRM).

Department Policy states:

DEPARTMENT POLICY MA Only

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

SSI-RELATED AND FIP-RELATED The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. Another category is SSI recipients. There are several other categories for persons not receiving FIP or SSI. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. Therefore, these categories are referred to as either FIP-related or SSI related.

To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories.

GROUP 1 AND GROUP 2

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for FIP-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories.

MONTHLY DETERMINATIONS

MA-only eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise.

BAM 815 Department Policy

FIP, SDA, MA and FAP Only

This item contains medical determination procedures for:

- Establishing medical eligibility for assistance programs.
- Determining whether an institutionalized MA client is capable of indicating intent to remain a Michigan resident.

See **OBTAINING MEDICAL EVIDENCE** in this item for allowable payments and procedures for obtaining medical evidence to determine:

- Disability and blindness.

- Employment-related activities disability deferrals per BEM 230A.

SDA and MA Only Medical evidence provided by the client will be reviewed by the Medical Review Team (MRT) and a physician.

The MRT reviews medical evidence for disability or blindness, and certifies the client's medical eligibility for assistance. MRT does not accept electronic medical records in the form of CDs or DVDs. Inform providers on the DHS-1555 that paper copies are required. Requests for medical records from the Social Security Administration should include the same information. The local office **must** designate a medical contact person to coordinate the flow of medical information between the DHS specialist and the MRT.

Medical evidence provided by the client at the appeals level will be reviewed by the State Hearings Review Team (SHRT), composed of a medical consultant and SHRT examiner. The SHRT reviews medical evidence, for disability or blindness, and certifies favorable decisions regarding the client's medical eligibility for assistance.

BEM 260 Eligible for RSDI

A person eligible for Retirement, Survivors and Disability Insurance (RSDI) benefits based on his disability or blindness meets the disability or blindness criteria. Disability or blindness starts from the RSDI disability onset date established by the Social Security Administration (SSA). This includes a person whose entire RSDI benefit is being withheld for recoupment. No other evidence is required.

RSDI Eligibility established After MA Denial

Process a previously denied application as if it is a pending application when all of the following are true:

- The reason for denial was that the MRT/SRT determined the client was **not** disabled or blind, **and**
- The Social Security Administration (SSA) subsequently determined that the client is entitled to RSDI based on his disability/blindness for some or all of the time covered by the denied MA application.

The claimant submitted an Application for MA. It was referred to the MRT as required by policy. The MRT requested additional medical evaluation. Although the department claims to have mailed the DHS 900 to the claimant on February 12, 2010, they do not dispute the fact that the notice was not mailed to the Authorized Representative. The claimant claims that he never received the Appointment notice. The department is required to send notification to the Authorized Representative as well. In [REDACTED], the department verified with the doctor's office that the claimant did not attend the appointment. The department then closed the file. The department did not produce the Notice of Case Action as evidence. The authorized hearing representative claimed not to have received a Notice of Case Action. Without the actual Notice of Case action it is impossible to determine the actual cause for the negative action in this matter. It would appear that the department found the claimant not disabled as they did not approve his request for disability.

Department policy in BEM 260 states that if RSDI is established after MA denial, the department shall process the previously denied application as if it is a pending application when the denial was that the MRT determined that the claimant was not disabled and the SSA subsequently determined that the claimant is entitled to RSDI based on his disability for some time or all of the time covered by the denied MA application. In this case, the claimant submitted an application for MA based on disability in January requesting retro MA. The department denied his request for MA. The claimant was found to be entitled to RSDI by the SSA. The SSA determined his disability onset date as February 1, 2010. This would be within the timeframe of his pending application since his denial did not occur until June 2010.

It is found that the Department did not properly process the Claimant's MA application as a result of his subsequent RSDI determination and their failure to provide notice to the Authorized Representative.

DECISION AND ORDER:

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that Department did not properly process the MA application.

Accordingly, the Department's MA action is reversed. The Department shall:

1. Reprocess the Claimant's January 2010 MA application and Retro MA application in accordance with Department policy.
2. Issue any retroactive MA benefits the Claimant is otherwise eligible to receive.
3. Provide a copy of eligibility determination to both claimant and his authorized representative.

SO ORDERED.

/s/

Kandra Robbins
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 25, 2011

Date Mailed: May 25, 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.

KR/ar

cc:

[REDACTED]