

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-25878
2010-48813 REHD
Issue No.: 2006
Case No.: [REDACTED]
Re-Hearing Date: June 1, 2011
DHS County: Livingston

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon an Order for Reconsideration filed on March 9, 2011. The claimant is represented by [REDACTED]

ISSUE

1. The issue set forth in the original Hearing Decision mailed on February 8, 2011, is hereby incorporated by reference.

FINDINGS OF FACT

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

1. The Findings of Fact 1-11, as set forth in the original Hearing Decision mailed on February 8, 2011, are hereby incorporated by reference.

CONCLUSIONS OF LAW

The Conclusions of Law as set forth in the original Hearing Decision mailed on February 8, 2011, are hereby incorporated by reference.

Claimant's authorized representative was granted reconsideration on the basis that this Administrative Law Judge failed to mention in her decision the Department's failure to give notice to [REDACTED] of the appointment scheduled for the Claimant for his consultative examination so that [REDACTED] could have provided advance notice that the Claimant could not attend his appointment because he was incarcerated. If notice had been provided, it might have been possible to arrange with prison transportation to the examination.

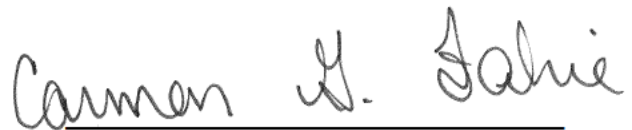
This Administrative Law Judge finds that [REDACTED] informed the Department that the Claimant was incarcerated on [REDACTED], with an earliest release date of [REDACTED]. In actuality, the Claimant was released from jail on [REDACTED]. The application was filed on December 28, 2009, with retro to September 2009. The MRT, when they received the original medical packet on February 20, 2010, could not make a decision of disability and requested a psychiatric exam, which is a determination that MRT has the authority to make and also to request additional medical information. The Claimant was incarcerated on [REDACTED], and could not make his appointment that was scheduled on April 19, 2010.

The Department is required to process applications within the standard of promptness of 90 days. A claimant incarcerated for an extended period of time cannot have his MA application put on hold until he is released and available for a consultative exam. As a result, the Department caseworker denied the Claimant's case on April 7, 2010, for failure to attend a scheduled medical appointment. There was no requirement that the Department caseworker wait until after the appointment even though she did. The Claimant was not expected to be released until [REDACTED]. An application can be processed even if a claimant is incarcerated, but the claimant would have had to be available for a consultative exam and to be able to provide any information needed to determine eligibility. This Claimant was not available for a consultative exam because he was incarcerated.

Therefore, the Department has established that it was acting in compliance with Department policy by determining that the Claimant and his authorized representative failed to provide the required verifications even though the Claimant was incarcerated from [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the original Decision and Order mailed on February 8, 2011, is hereby **AFFIRMED**.



Carmen G. Fahie
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: December 21, 2011

2011-25878/CGF
2010-48813 REHD

Date Mailed: December 21, 2011

NOTICE: The law provides that within 30 days of receipt of the above Rehearing Decision and Order, the claimant may appeal it to the circuit court for the county in which he/she lives.

CGF / pf

cc:

