

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-34631
Issue No. 2006
Case No. [REDACTED]
Hearing Date: July 14, 2011
Oakland (04)

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, which govern the administrative hearing and appeal process, and Claimant's request for a hearing. After due notice, a telephone hearing was held on July 14, 2011 in Detroit. The Claimant did not appear. [REDACTED] L&S Associates, Inc., Claimant's Authorized Hearing Representative, appeared and testified on behalf of Claimant. [REDACTED] Assistance Payments Supervisor, appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether Claimant refused to cooperate with DHS' application process for Medical Assistance (MA or Medicaid) benefits?

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 November 29, 2010, Claimant applied for Medicaid benefits with DHS.
2. On December 15, 2010, DHS sent Claimant a Verification Checklist, requesting verification information to be returned to DHS by December 27, 2010.
3. On December 23, 2010, January 5, 2011 and January 14, 2011, DHS granted extensions of time for Claimant to provide verification information.
4. On about January 14, 2011, Claimant moved to the State [REDACTED]

5. On February 14, 2011, DHS issued a Notice of Case Action denying Claimant's application, due to the Claimant's failure to provide verification documents.
6. On May 5, 2011, Claimant filed a Request for a Hearing with DHS.

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 MA pursuant to MCL 400.10, *et seq.* and MCL 400.105. Department policies are found in Bridge's Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

BAM, BEM and RFT are the manuals that 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.

In this case I find that BAM 105 is the applicable manual item. BAM 105 requires DHS to administer its programs in a responsible manner so that client rights will be protected.

Client rights must be protected by DHS, and this is stated at the outset of BAM 105:

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 section of BAM 105 to mean that the agency must fulfill these duties, and the agency 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 I read BAM 105 to mean that as long as the client is cooperating, and has not refused to cooperate, the agency must act in a manner that protects client rights. 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.

Having identified the relevant legal authority for my decision, I now proceed to my analysis of how the law applies to the facts of the case at hand. I have reviewed all of the evidence and testimony in this case as a whole. I find and conclude that in this case DHS granted Claimant three extensions of time, yet Claimant failed to provide the verification information. At the hearing Claimant presented no reason whatsoever for her failure. I see no extenuating circumstances in this case which would prevent me from a conclusion that Claimant is refusing to cooperate with the Department. Accordingly, I so conclude.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS acted correctly in denying Claimant's Medicaid application of November 29, 2010. DHS is AFFIRMED and need take no further action.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is AFFIRMED. DHS need take no further action in this case.



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

Date Signed: July 14, 2011

Date Mailed: July 14, 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.

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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.

JL/cl

cc:

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