

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.: 2011-3665
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: March 24, 2011
DHS County: Wayne (82-41)

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 24, 2011. Claimant did not appear. [REDACTED] Claimant's Authorized Representative, appeared and testified for Claimant. The Department of Human Services (DHS) did not appear.

ISSUE

Whether Claimant cooperated 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 February 14, 2009, Claimant was admitted to a health care facility for medical care.
2. On March 6, 2009, Claimant applied for retroactive MA benefits.
3. At all times pertinent to this matter, Claimant's Authorized Representative was [REDACTED].
4. DHS did not send a Medical Appointment Confirmation Notice to [REDACTED].
5. DHS did not send an Application Eligibility Notice denying MA benefits to [REDACTED].

6. On September 13, 2010, Claimant learned via a copy of a DHS Facility Admission Notice that DHS denied MA to him because he failed to keep a doctor's appointment.
7. On October 18, 2010, Claimant filed a Request for 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 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.

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 are required to be protected, 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 DHS must fulfill these duties, and DHS 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, DHS 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 examined all of the evidence and testimony in this case. Applying BAM 105, I find and conclude that Claimant exhibited full cooperation when he applied for MA benefits. Claimant's application included an [REDACTED] Authorization for Release of Information and an [REDACTED] Authorization to Represent. I find that DHS erred in failing to notify Claimant's Authorized Representative of the doctor's appointment, and this error constitutes a failure to protect the client's rights to MA benefits. I decide and determine that DHS erred in this case and a remedy is appropriate.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS erred in failing to send documentation to Claimant's Authorized Representative. I find that DHS acted incorrectly and is REVERSED. DHS is ORDERED to reinstate Claimant's MA application and process it, including rescheduling a doctor's appointment for Claimant if it is appropriate. Further, DHS shall provide Claimant with any retroactive benefits to which he is entitled, in accordance with all DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is REVERSED. IT IS ORDERED that DHS shall reinstate and reprocess Claimant's MA application, including scheduling a doctor's appointment for him if appropriate, and DHS shall provide supplemental retroactive MA benefits, in accordance with DHS policies and procedures.



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

Date Signed: March 31, 2011

Date Mailed: April 4, 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:

