

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

IN THE MATTER OF:



Reg. No: 2011-49206
Issue No: 2006
Case No: [REDACTED]
Hearing Date:
September 21, 2011
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on September 20, 2011. The claimant appeared and provided testimony.

ISSUE

Did the department properly close the claimant's Medical Assistance (MA-P) for failure to pursue Social Security Administration (SSA) benefits?

FINDINGS OF FACT

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

1. The claimant had been approved for disability-related Medicaid (MA-P) by the Medical Review Team (MRT) on September 21, 2010. (Department Exhibit 36 – 37)
2. On March 11, 2011, the claimant was mailed a Notice To Apply (DHS-1551) that indicated he was required to submit a request for hearing to SSA by March 31, 2011. (Department Exhibit 53)
3. The claimant was due for a medical review on June 30, 2011. (Department Exhibit 51)

4. At review, it was determined that the claimant's Social Security application had been denied by the SSA at step 1 in January, 2011 and that the claimant had not appealed that decision. (Department Exhibit 51, 60 - 62)
5. On July 6, 2011, the claimant was mailed a Notice of Case Action (DHS-1605) that indicated effective August 1, 2011, his Medicaid would close. (Department Exhibit 55 – 59)
6. The claimant submitted a hearing request on July 27, 2011.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

Clients must apply for benefits for which they may be eligible. This includes taking action to make the entire benefit amount available to the group. Any action by the client or other group members to restrict the amount of the benefit made available to the group causes ineligibility. BEM 270.

Retirement, Survivors, and Disability Insurance (RSDI)

FIP, SDA, CDC, AMP and MA Only

RSDI benefits are payable to a wage earner and/or his dependents. The benefits are administered by the Social Security Administration (SSA). The wage earner must be covered by Social Security and must be:

- Retired and at least age 62.
- Disabled or blind.
- Dead.

RSDI are potential benefits for all of the following persons:

- A person who is blind.
- A person who is retired and at least age 62.

- A person who claims illness or injury prevents him from working for at least 12 months.
- A person whose spouse is retired, disabled or dead.
- A child whose parent is retired, disabled or dead.

**Supplemental Security Income (SSI)
FIP, RAP, SDA, CDC and AMP Only**

SSI benefits are paid to persons who are aged (65 or older), blind or disabled. The following clients must be referred to SSA to apply for SSI:

- Persons age 65 or older.
- Person receiving SDA and disability-related MA.
- Adults in a FIP group who are blind or who claim illness or injury prevents them from working for at least 12 months. However, do not deny eligibility to an FIP Applicant or Recipient unless MRT has determined that they are potentially eligible for SSI.
- Children who are blind or disabled. A child is considered disabled for SSI purposes if they meet all of the following:
 - He has a physical or mental condition(s) that can be medically proven.
 - The condition(s) results in **marked and severe** functional limitations.
 - The condition has lasted or is expected to last at least 12 months or end in death.
 - The child is not working at a job considered “substantial work” by SSA.

Note: In rare circumstances, the MRT or SSI Advocate might request that certain clients not be referred to SSA to apply for SSI at the time of approval for SSI-related MA. Such exemption will be certified on the DHS-49-A, Medicaid-Social Eligibility Certification. BEM 270.

Request an SSI Hearing

An SSI hearing **must** be requested within 60 days of the SSI application denial date. You must:

1. Send the client a DHS-1551, a DHS-1552 marked "Appeal" and a return envelope.
2. Verify whether the client has requested an SSI hearing within 10 calendar days of the date the DHS-1551 is sent to the client. Acceptable verification of a request for an SSI hearing includes any of the following:
 - DHS-1552.
 - Single Online Query (SOLQ).
 - Documented telephone contact or written acknowledgment from SSA.

Note: SSA does allow good cause for late filing. As a result, allow an extension if the client is unable to file the request for hearing at SSA within the 10 calendar day limit for any of the following reasons:

- The client is ill.
 - The client's county of residence does not have an SSA district office.
3. If the client is cooperating with the SSI application process, continue with step 4. **If the client is not cooperating, close state funded FIP/SDA and MAP.** End procedure.
 4. Review verification of the disposition of the SSI Hearing:
 - If **approved**, advise the client to contact the department immediately when he receives an SSI payment. End Process.
 - If denied for **nondisability** reasons, review ongoing eligibility based on this information. End process.

- If denied for **disability** reasons, go to **Request an Appeals Council Review** below.

Note: If you do not receive notification of disposition within 180 days of the date of the hearing request, determine the status of the SSI Hearing Request. Acceptable verification includes any of the following:

- DHS-1552.
- Single Online Query (SOLQ).
- Documented telephone contact or written acknowledgment from SSA. BEM 271.

The claimant in this case submitted a hearing request to protest the closure of his disability-related Medicaid benefits. The department representative testified that the client's MA-P benefits were closed because he failed to continue the Social Security disability application process and appeal to a second step, after being denied at the first step. The claimant testified that he did receive a denial at step 1 in January, 2011. The claimant was not sure if or when he had filed a step 2 appeal. The department presented a Single On-Line Query (SOLQ) report that shows no appeal has been received by the SSA.

Department policy indicates that clients must pursue all potential benefits, which includes Social Security disability benefits (RSDI or SSI). BEM 270. Policy also indicates that if a client is not cooperating with the appeal process, the department shall close state-funded MA-P benefits. BEM 271. Policy indicates acceptable verification of the lack of an appeal includes an SOLQ report, which was produced in this case. BEM 271. The SOLQ report shows that the claimant has not submitted any appeal of his January, 2011 step 1 denial.

The claimant had 60 days to submit his step 2 appeal. The department mailed the claimant a Notice To Apply (DHS-1551) on March 11, 2011, informing the client that he had to request a step 2 hearing by March 31, 2011. As the claimant failed to follow the required process for appealing his SSA decision, the department appropriately closed his MA-P, in accordance with BEM 271.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed the claimant's Medical Assistance (MA-P) for failure to pursue Social Security Administration (SSA) benefits.

Accordingly, the department's determination is UPHELD. SO ORDERED.

Suzanne

_____/s/_____
L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 26, 2011

Date Mailed: September 26, 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.

SM/ac

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