

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.: 2011-11347
Issue No.: 2012
Case No.: [REDACTED]
Hearing Date: February 16, 2011
DHS County: Wayne (82-19)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on February 16, 2011. Claimant did not appear. [REDACTED], Claimant's Authorized Representative, appeared and testified on Claimant's behalf. [REDACTED], and [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant is eligible for Medical Assistance (MA or Medicaid) benefits and MA retroactive benefits as of February 24, 2010?

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 24, 2010, Claimant applied for MA and MA retroactive benefits with DHS.
2. DHS misplaced or lost Claimant's application.
3. DHS failed to process Claimant's application.
4. On October 6, 2010, Claimant filed a hearing request 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. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These materials are available online at www.michigan.gov/dhs-manuals.

The applicable DHS manual section in this case is BAM 105, "Rights and Responsibilities." BAM 105 states that DHS policy is as follows:

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 of 13. (Bold print in original.)

In this case, Claimant's Authorized Representative submitted documentary evidence at the hearing from the FedEx Company establishing that Claimant's application was received by DHS employee [REDACTED]

[REDACTED] DHS failed to protect client rights when it misplaced or lost these documents. DHS also failed to protect client rights in that when, on several occasions, [REDACTED] brought the error to DHS' attention, DHS failed to request proof of the February 24, 2010, application from [REDACTED].

I also find and conclude that Claimant fulfilled his obligation to cooperate with the local DHS office, which is also required by BAM 105 on page 5:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. ...

Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. *Id.*, p. 5 of 13. (Bold print in original.)

I determine that Claimant's obligation to cooperate in this case was fulfilled based on Claimant's credible and un rebutted testimony and documentation presented that [REDACTED] on several occasions, followed up on the status of the application.

In conclusion, based on the above findings of fact and conclusions of law, I decide that DHS failed to protect the client's rights in this matter and its action shall be REVERSED. DHS is ORDERED to open and process Claimant's MA and MA retroactive applications of February 24, 2010, in accordance with DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, hereby determines that DHS is REVERSED. IT IS ORDERED that DHS shall process Claimant's Medicaid and Medicaid retroactive applications filed February 24, 2010, in accordance with DHS policies and procedures.



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

Date Signed: February 28, 2011

Date Mailed: March 3, 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.

2011-11347/JL

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:

