

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.: 2011-14283
Issue No.: 2012
Case No.: [REDACTED]
Hearing Date: February 16, 2011
DHS County: Oakland (63-02)

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 appeared and testified. [REDACTED], Claimant's Authorized Representative, appeared and testified on behalf of Claimant. [REDACTED] appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether DHS denied Medical Assistance (MA or Medicaid) to Claimant in accordance with its own policies and procedures?

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 [REDACTED], during an emergency admission to [REDACTED], Claimant applied for Medicaid coverage.
2. Claimant's [REDACTED], application was completed by someone other than Claimant, [REDACTED] (indecipherable) of [REDACTED].
3. Claimant's [REDACTED], application contains admittedly erroneous information about her family group, i.e. that [REDACTED] her estranged husband, lives at the [REDACTED] residence with her.

4. DHS failed to act on Claimant's [REDACTED], application.
5. On or about October 13, 2010, Claimant reapplied for MA benefits, again using [REDACTED] as her Authorized Representative.
6. Claimant's October 13, 2010, application states that Claimant's husband is not living in the home.
7. On December 10, 2010, DHS denied Claimant's October 13 application.
8. On December 21, 2010, 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 U.S. 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 resources 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, the Department cites four manual Items in the Hearing Summary as its legal authority for the action. I have examined these manual Items, and I find nothing in them that provides guidance for me in this specific situation.

After further legal research, I find and determine that the correct legal basis for deciding this case is BAM 600, "Hearings," p. 1, which states:

HEARINGS

NOTICE REQUIREMENTS

MA Only

A client and the client's community spouse are each **entitled to an explanation of specific factors in the determination.** Follow

instructions in BEM 402 [Special MA Asset Rules]. BAM 600, p. 1
(emphasis added).

BAM 600 states that customers are entitled to know if their application is granted or denied, and this did not occur here. I determine and conclude as a matter of law that DHS erred in this case in that it failed to act on Claimant's August 26, 2010, application. Claimant's [REDACTED], application stated there were two adults in the home, and DHS should have asked for verification of assets for both of them by sending out a Verification Checklist naming both Claimant and her husband. If DHS had acted to verify assets, Claimant's error on the application would have been discovered in a timely fashion and Claimant would have had an opportunity to correct the error or take other appropriate action. Also, Claimant would not have had to file a second application in October 2010 and DHS would not have had to process it.

DHS then compounded its error in this case by failing to provide specific reasons for the denial of Claimant's October 13, 2010, application. DHS did not enter into the case record the official Notice of Case Action of December 10, 2010, denying Claimant's benefits. So, I do not know the official reason for the denial. I can only look at the text of the Hearing Summary to determine the issues in this case.

In the Hearing Summary, DHS states, "This case was denied on 12/10/2010 for unclear group composition which prevents an accurate budget being done." Based on this statement in the DHS Hearing Summary, I find it is reasonable to conclude that the phrase, "unclear group composition," was used in the Notice of Case Action of December 10, 2010.

I find nothing in any DHS manual that permits "unclear group composition" as a legal basis for denying MA benefits. I determine and conclude that Claimant is entitled to a specific reason as a matter of DHS policy and procedure. I find and conclude that the phrase "unclear group composition" in the Hearing Summary is not sufficiently specific evidence. Furthermore, if DHS denied the October 13 application because it is untruthful by virtue of being inconsistent with some other document, it must state this in writing in its Notice of Case Action. I find and conclude that DHS failed to provide this specificity in the denial Notice and, as a result, Claimant was again denied due process of law.

Stated another way, DHS has the obligation to decide the facts, i.e., whether there is or is not a second adult in Claimant's family group. If there is, DHS is required to process the application and, if it is denied, to deny it for a clearly stated reason. I find and conclude that the word "unclear" is not clear and specific. I determine that the reason for the specificity requirement in BAM 600 is that customers need to know what assets DHS used in making Medicaid program decisions.

I find that DHS needs to decide whether there are one or two persons in the MA group, because Claimant may be entitled to MA benefits for a group of one or a group of two, and DHS must protect her right to these benefits. BAM 105, "Rights and Responsibilities," p. 1.

I further find that, for DHS, a government agency delegated responsibility for the MA program, to deny MA benefits without a clear reason is erroneous. Claimant is entitled to receive notice of the real reasons for DHS' administrative action. I find that BAM 600 requires DHS to state its reasons in specific terms and language to Claimant in the Notice of Case Action, DHS Form 1605. *Id.*

In addition, I find that DHS violated BAM 600 in that it failed to make efforts to clarify and resolve this situation after Claimant's hearing request was submitted.

DEPARTMENT POLICY

All Programs

...

Efforts to clarify and resolve the client's concerns must start when the hearing request is received and continue through the day of the hearing. BAM 600, "Hearings," p. 1 (bold print in original).

I read this section to mean that if anything is unclear, DHS has the legal obligation to clear it up once the customer files a hearing request. I find that DHS erred in that it failed to do so in this case.

In conclusion, based on the above findings of fact and conclusions of law, I find that DHS erred in this case and shall be REVERSED. IT IS HEREBY ORDERED that DHS shall reopen and reprocess Claimant's [REDACTED], MA application and notify Claimant of its decision in specific terms in a Notice of Case Action, DHS Form 1605.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS erred and is REVERSED in this case. IT IS HEREBY ORDERED that DHS shall reopen and reprocess Claimant's [REDACTED], MA application in accordance with this decision and DHS policies and procedures.



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

Date Signed: March 2, 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.

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:

