

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

IN THE MATTER OF:

[REDACTED]

Oakland

Reg
Issue
Hearing

No. 2011 22633

No: 2027

[REDACTED]

Date:

April 14, 2011

County DHS (04)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing date February 22, 2011. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 14, 2011. The Claimant appeared and testified. The Claimant's Authorized Representative, [REDACTED] appeared on behalf of the Claimant. The Department's representative [REDACTED] Assistance Payments Supervisor appeared and testified on behalf of the Department.

ISSUE

Whether the Claimant's request for hearing regarding the closure of his Medical Assistance Case was timely.

Whether the Notice of Case Action complied with required reasons for the action taken by the Department as required by BAM 220.

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 was an ongoing recipient of Medical Assistance (MA) until July 1, 2010, when the Department closed his case.
2. The Department sent a notice of Case Action to the Claimant dated June 18, 2010, which closed the Claimant's Medical Assistance case. Exhibit 1
3. The Notice of Case Action did not advise the Claimant of the reasons for the action taken nor did it include the manual items relied upon Exhibit 1
4. The Notice was mailed to the Claimant at his current address.
5. The Claimant did not receive the Notice of Case Action.
6. The Claimant first learned that his MA case was closed in February 2011, when a prescription he ordered was delivered to him and required a co-pay amount. When he called the pharmacy provider, he learned his medical assistance coverage was cancelled.
7. The Claimant requested a hearing on February 22, 2011, protesting that he was not eligible for Medical Assistance
8. The Claimant's hearing request was received by the Department on February 22, 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, formally known as the Family Independence

Agency, 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 Bridges Reference Manual (“PRM”).

In this case, the record reveals that the Claimant did not receive the Notice of Case Action that was sent to him to give him notice that his Medical Assistance case was closed. The Claimant credibly testified that he did not receive the Notice of Case Action and that he first learned of the closure inadvertently when a prescription delivered to him required a co pay, and upon checking with his pharmacist, first learned of the case closure.

The hearing request filed by the Claimant on February 22, 2011 was timely. Hearing requests are required to be filed within 90 days of the action taken by the Department or failure of the Department to act. In this case, the Claimant first learned of the action in February 2011 and thus his request was timely.

BAM 600 is the policy which governs the timeliness of hearing requests it provides:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. Id page 4.

Based upon these facts and circumstances and testimony of the witnesses, it is found that the Claimant’s hearing request was timely as he did not receive the original Notice of Case Action dated June 18, 2010.

At the hearing, a second issue was raised by the Claimant regarding the adequacy of the notice given by the Notice of Case Action. Negative Actions and their contents are governed by BAM 220 which provides:

A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

BAM220, pages 1 and 2

The Notice of Case Action in this case was deficient in that it provided no notice to the Claimant other than his case was closed. It did not give the reasons for the action and a specific manual item citing the legal basis for the action as required by Department Policy. Under these circumstances, based upon the finding that the Claimant did not receive notice and the inadequacy of the notice provided by the Notice of Case Action, it is determined that the Department's action, closing the Claimant's Medical Assistance case, must be REVERSED.


DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, determines that the February 22, 2011 hearing request was timely and that the Notice of Case Action, issued June 18, 2010, did not comply with the notice requirements mandated by Department policy and, therefore, the actions of the Department, closing the Claimant's Medical Assistance case, are REVERSED.

Accordingly, it is ORDERED:

1. The Department shall reopen and reinstate the Claimant's Medical Assistance case, retroactive to the date of closure, and determine the claimant's eligibility for continuing Medical Assistance benefits.

- The Department shall provide proper notice and the basis and policy reason, when notifying the Claimant of any negative or positive action(s) regarding the Claimant's case as required by BAM 220.



Administrative
for
Department

Lynn M. Ferris
Law Judge
Maura Corrigan, Director
of Human Services

Date Signed: 05/19/11

Date Mailed: 05/20/11

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.

LMF/dj

cc:

