

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. 2011-31183
Issue No. 2006
Case No. [REDACTED]
Hearing Date: June 6, 2011
[REDACTED]

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]'s request for a hearing. After due notice, a telephone hearing was held on June 6, 2011. The Claimant appeared and testified at the hearing. [REDACTED] appeared and testified as a witness for Claimant. [REDACTED] Assistance Payments Worker, appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether Claimant refused to cooperate 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. At all times pertinent to this matter, Claimant was unemployed and received Supplemental Security Income (SSI) benefits from the U.S. Social Security Administration.
2. On or about December 10, 2010, Claimant applied for Medicaid benefits with DHS.
3. On March 19, 2011, DHS sent Claimant a Verification Check list, requesting employment information to be supplied by Claimant by March 29, 2011.

4. Claimant failed to return the Verification Checklist.
5. On March 30, 2011, DHS issued a Notice of Case Action denying Claimant's application.
6. On April 11, 2011, 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 Code of Federal Regulations. DHS 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 Reference Tables (RFT). The manuals are available online at www.michigan.gov/dhs-manuals.

BAM, BEM and RFT 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 must be protected by DHS, 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 the agency must fulfill these duties, and the agency 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, and has not refused to cooperate, the agency 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 reviewed all of the evidence and testimony in this case as a whole. I find and conclude that DHS erred in failing to protect the rights of a client who has been fully cooperative with them. I find and determine that DHS was already aware from Claimant's application that she had no employment income, and interposed an arbitrary requirement of verification of that fact when it required Claimant to submit a Verification Checklist. I find and determine that this is not a situation where DHS' application of rigid deadlines protects client rights. I decide and determine that DHS erred in this case and a remedy is appropriate.

I further find that BAM 130, "Verification and Collateral Contacts," provides for up to three extensions of time to complete an MA application. I find and conclude that if the Department was genuinely in need of employment information, it should have provided a BAM 130 extension of time to Claimant. This is required by BAM 130, and Claimant would not be aware of this option without advice from DHS. I find that Claimant demonstrated substantial cooperation in completing the application process completely in December 2010.

I further note that as Claimant is an SSI recipient, Claimant's MA application must be treated as not just an application for one MA program, such as the Adult Medicaid Program, but as an application for disability, insurance premiums, and any other program to which she may be entitled. BAM 105, "Rights and Responsibilities," and BEM 105, "Medicaid Overview," both require that MA applicants be considered for the "most beneficial category" of benefits available.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS erred in failing to recognize Claimant's substantial cooperation in the application process, and to fulfill its duty to protect clients' rights. I find and conclude that DHS acted incorrectly and is REVERSED.

DHS is ORDERED to reinstate Claimant's December 10, 2010 Medicaid application and process it. DHS is ORDERED to provide Claimant with all appropriate application procedures, including review by the Medical Review Team, and to provide Claimant with

the most beneficial category of benefits effective December 10, 2010, her application date. All steps taken by DHS shall be taken 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 December 10, 2010 MA application, refer her application to the Medical Review Team if appropriate, and provide the most beneficial category of MA benefits available to her effective December 10, 2010, the date of Claimant's application. All steps shall be taken in accordance with DHS policies and procedures.



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

Date Signed: June 9, 2011

Date Mailed: June 10, 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/cl

cc:

