

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-31457
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: May 26, 2011
DHS County: Wayne (82-31)

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] request for a hearing. After due notice, a telephone hearing was held on May 26, 2011. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS denied Medical Assistance (MA or Medicaid) benefits to Claimant in accordance with DHS policy and procedure?

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. In 2011, DHS provided MA benefits to Claimant.
2. In or about March 2011, DHS erroneously terminated Claimant's MA benefits.
3. On March 25, 2011, Claimant incurred a medical expense and provided a receipt to DHS.
4. DHS corrected the erroneous termination of Claimant's MA, but failed to reimburse Claimant for her March 25 expense.
5. On at least three occasions, Claimant contacted DHS and received no assurances that she would be reimbursed.

6. On April 18, 2011, Claimant filed a Request for a Hearing notice with DHS.
7. At the Administrative Hearing on May 26, 2011, DHS agreed that Claimant was entitled to reimbursement of her March 25, 2011, medical expense through the MA program.

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. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The DHS manuals are the policies and procedures DHS officially created for its own use. While the 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 policies are, I will examine whether they were 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 DHS must fulfill these duties, and DHS 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, DHS 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 in full cooperation with them. I find and determine that Claimant is eligible for, and is entitled to, reimbursement of her medical expenses during the time DHS provided her with MA coverage

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 complete cooperation in the MA reimbursement process and to fulfill its duty to protect client rights. I find and conclude that DHS acted incorrectly and is REVERSED.

DHS is ORDERED to reimburse Claimant's medical expense of March 25, 2011. All steps shall be taken 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, decides that DHS is REVERSED. IT IS ORDERED that DHS shall reimburse Claimant's March 25, 2011, medical expense through her MA coverage. 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 2, 2011

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Date Mailed: June 8, 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:

