

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.: 20113663
Issue No.: 2006/4003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 1, 2010
Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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. After due notice, a telephone hearing was held on December 1, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Medical Assistance (MA) benefits due to Claimant's failure to appeal a denial of Social Security Administration (SSA) benefits.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for Social Security Administration (SSA) benefits on 3/30/09
2. On an unspecified date, DHS determined that Claimant was a disabled individual and approved SDA and MA benefits on the basis that Claimant was a disabled individual.
3. Claimant was an ongoing SDA and MA benefit recipient since at least 3/30/2009.
4. On 6/2/09, SSA denied Claimant's SSA application on the basis that Claimant was not a disabled individual.

5. On 4/28/10, DHS terminated Claimant's SDA and MA benefits based on Claimant's failure to timely appeal the denial of SSA benefits
6. On 4/29/10, Claimant requested a hearing disputing the termination of SDA and MA benefits.

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 (formerly 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 Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

For SDA and MA benefits, clients must apply for benefits for which they may be eligible. BEM 270 at 1. For SDA benefits, refusal of a program group member to pursue a potential benefit results in group ineligibility. *Id.* For MA benefits, refusal to pursue a potential benefit results in person ineligibility. *Id.* Retirement, Survivors, Disability Insurance (RSDI) and Supplemental Security Income (SSI) are potential benefits for disabled individuals. *Id.* at 2.

In the present case, it was not disputed that Claimant applied for SSA benefits on 3/30/09. It was also not disputed that SSA denied Claimant's SSA application on 6/2/09. DHS indicated that SSA denied Claimant's SSA application based on an a determination that Claimant was not disabled. DHS contends that Claimant's failure to timely appeal the SSA denial was an appropriate basis to terminate Claimant's ongoing SDA and MA benefits.

The disability standard for both disability-related MA and SSI is the same. BEM 271 at 1. The federal SSI benefit payment rates are substantially higher than the state-funded

FIP/SDA payment rates. *Id.* It is a benefit to both the state-funded FIP/SDA recipient and the state when the individual is determined eligible for federal SSI benefits. *Id.* BEM 271 outlines the local office responsibilities in monitoring the SSA application and appeal process.

A hearing based on a denied SSA application must be requested within 60 days of the SSI application denial date. *Id.* at 6. For clients receiving SDA and MA benefits who are denied SSA benefits, DHS must:

1. Send the client a DHS-1551 (Notice to Apply), a DHS-1552 (Verification of Application or Appeal for SSI/RSDI) marked "Appeal" and a return envelope.
2. Verify whether the client has requested an SSI hearing within 10 calendar days of the date the DHS-1551 is sent to the client.
3. If the client is cooperating with the SSI application process, the specialist should continue with step 4. If the client is not cooperating, close state-funded FIP/SDA and MA-P.
4. Review verification of the disposition of the SSI Hearing to determine whether the SSA application was approved, denied based on a lack of disability or denied based on a non-disability related reason. *Id.* at 7.

In the present case, DHS conceded that Claimant was not mailed a DHS-1551 or DHS-1552 within 60 days of the SSA application denial. The DHS failure to mail these forms is directly related to Claimant's failure to appeal the SSA application denial. Though Claimant could have appealed the SSA denial based on a notice of denial directly sent from SSA, DHS regulations also require DHS to inform clients of a denied SSA application by mailing a DHS-1551 and DHS-1552. The DHS failure to timely mail the DHS-1551 and DHS-1552 to Claimant is fatal to a proper termination of SDA and MA benefits based on a failure by a client to appeal a SSA denied application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's SDA and MA benefits. It is ordered that DHS reinstate Claimant's SDA and MA benefits to the date of closure and to supplement Claimant for any lost benefits as a result of the closure. DHS shall also

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follow DHS regulations in assisting Claimant with a subsequent SSA application. The actions taken by DHS are REVERSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/13/2010

Date Mailed: 12/13/2010

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.

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