

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

IN THE MATTER OF:



Reg. No.: 2011-51025
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: April 5, 2012
County: MA Spec Proc

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a three-way telephone hearing was held on April 5, 2012, from Lansing, Michigan. Claimant appeared via telephone and participated in the hearing. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistance Payments Worker).

ISSUE

Did the Department properly close Claimant's Interim Medicaid (also referred to as Medical Assistance (MA) for failure to timely return the verification checklist?

FINDINGS OF FACT

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

1. On April 18, 2011, the Department had been aware that Claimant had applied for disability with the Social Security Administration (SSA). The Department also had been informed that the SSA disability application was denied and that an appeal was pending.
2. On April 20, 2011, the Department mailed Claimant a Medicaid Settlement Agreement Supplemental Questionnaire (DHS-1011A) which was due by May 2, 2011.
3. On April 26, 2011, the Department received Claimant's completed DHS-1011A form. Claimant did not list that she had a disability on the DHS-1011A form.

4. On April 26, 2011, the Department mailed Claimant a Verification Checklist (DHS-3503) which was due by May 6, 2011.
5. Claimant did not return the DHS-3503 by May 6, 2011.
6. On June 20, 2011, the Department mailed Claimant a Medicaid Settlement Agreement Eligibility Notice (DHS-4599) which denied Claimant's ongoing Medicaid for failure to return the verification checklist.
7. Claimant requested a hearing on June 27, 2011.

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies for the MA programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The MA program is also referred to as "Medicaid." BEM 105. The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105. The Medicaid program is comprised of several sub-programs or categories. One category is Family Independence Program (FIP) recipients. BEM 105. Another category is Supplemental Security Income (SSI)¹ recipients. BEM 105. There are several other categories for persons not receiving FIP or SSI. BEM 105. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. BEM 105. Therefore, these categories are referred to as either FIP-related or SSI-related. BEM 105.

¹ Supplemental Security Income (SSI) is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. The Social Security Administration (SSA) determines SSI eligibility. BEM 150.

To receive Medicaid under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive Medicaid under FIP-related categories. For MA only, a client and the client's community spouse have the right to request a hearing on an initial asset assessment only if an application has actually been filed for the client. BAM 105. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. BEM 105.

The following individuals are considered SSI recipients for MA purposes even though they do **not** receive an SSI cash grant: (1) individuals appealing termination of SSI because SSA has determined they are no longer disabled or blind; [DHS local offices are responsible for determining initial and continuing eligibility]; and (2) 1619 Recipients - certain blind or disabled SSI recipients who work and have too much income for an SSI cash grant may be eligible for continued MA coverage. SSA determines eligibility. These recipients are the same as other SSI recipients in Bridges. BEM 150.

If the client is not eligible for RSDI based on disability or blindness the Medical Review Team (MRT) certifies disability and blindness. BEM 260. A client not eligible for RSDI based on disability or blindness must provide evidence of his disability or blindness. BEM 260. At this point, the Department must refer the client to the MRT. BEM 260.

Here, the Department erred when it failed to refer Claimant to the MRT for determination of a disability. Claimant's SSA disability application was in appeal status and was not final. The Department should not have sent Claimant a verification checklist under the circumstances where BEM 260 indicated that MRT referral was required. The Department representative who attended the hearing acknowledged the error on the record and testified that the Department should have referred Claimant to the MRT.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly when it denied Claimant's ongoing Medicaid based on her failure to return the Verification Checklist (DHS-1305).

Accordingly, the Department's ongoing Medicaid eligibility decision is REVERSED for the reasons stated above and for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reopen and reprocess Claimant's Medicaid case;

2. Send Claimant a Medical Review Team (MRT) packet as provided by policy;

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/10/12

Date Mailed: 4/10/12

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CAP/ds



