

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.: 2011-7621
Issue No.: 2012
Case No.: [REDACTED]
Hearing Date: January 31, 2011
DHS County: Macomb (50-12)

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 January 31, 2011. Claimant did not appear. [REDACTED], Claimant's Authorized Representative, appeared and testified on behalf of Claimant. [REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether DHS properly processed Claimant's June 11, 2010 Medical Assistance (MA or Medicaid) and MA retroactive applications?

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. On May 26, 2010, [REDACTED] appointed [REDACTED], Full Legal Guardian of Claimant.
2. On June 11, 2010, Claimant applied for MA and MA retroactive benefits with DHS.
3. Claimant's June 11, 2010, applications were misplaced or lost and, as a result, they were never processed.
4. Claimant retained copies of her June 11, 2010, applications.

5. On September 1, 2010, Claimant applied a second time for MA and MA retroactive benefits with DHS.
6. On October 13, 2010, DHS denied Claimant's September 1, 2010, applications and gave as the reason for the denial that Claimant failed to verify continued pursuit of release of monies in her JP Morgan Chase Bank account.
7. On October 26, 2010, Claimant filed a hearing request with DHS.
8. On December 28, 2010, Claimant filed a third application for MA benefits only.
9. On January 31, 2011, at the hearing, Claimant provided documentation supporting the December 28, 2010, application.
10. As a result, DHS agreed to process the December 28, 2010, application for MA only, and that application, if granted, would provide Claimant with eligibility effective December 1, 2010.
11. As a result, the parties agreed that the issues before the Administrative Law Judge are MA coverage for the six-month period of June 11-November 30, 2010, and MA retroactive coverage to March 11, 2010.

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. The Department's policies and procedures 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 manuals are the day-to-day operating instructions for all DHS activity. 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 policy is, I will examine whether it was in fact followed in this case.

In this case I determine that BAM 105, "Rights and Responsibilities," is the DHS Manual Item which shall be applied. The first section of BAM 105, titled "Department Policy," establishes Claimant's rights and DHS' corresponding duties, as follows:

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 (emphasis in original).

I have reviewed all of the testimony and evidence in this case as a whole. I find and conclude that, in this case, DHS failed to provide all three of the BAM 105 rights to Claimant. First, based on the record before me, I find and determine that DHS failed to determine Claimant's eligibility based on her June 11, 2010, applications. Second, I find and conclude that as a result of its failure to determine Claimant's eligibility, DHS then failed to calculate Claimant's benefit level. Third, I find and conclude that DHS failed to protect client rights in this case in that Claimant had a right to have her June 11, 2010, applications processed.

I find and determine that BAM 105 Department Policy is paramount and must be observed in this situation. I find and decide that Claimant is entitled to have her applications processed and DHS has the duty and responsibility to do this. I determine that the remedy is reversal of DHS' action, and reopening and reprocessing of the June 11, 2010, applications in accordance with DHS policies and procedures.

DHS policy also states that Claimant, on her part, must cooperate with DHS:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

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. *Id.*, p. 5.

I have reviewed all of the testimony and evidence in this case as a whole, and I find nothing in the record to indicate that Claimant refused to cooperate with DHS at any

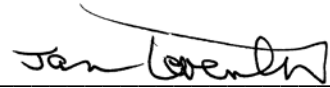
2011-7621/JL

time. Indeed, I find that Claimant gave her full cooperation to DHS throughout the application process.

In conclusion, based on the findings of fact and conclusions of law above, I find and conclude that DHS shall be REVERSED in this case. IT IS ORDERED that DHS shall accept and process Claimant's June 11, 2010, applications in accordance with DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that DHS' action was in error and shall be REVERSED. IT IS ORDERED that DHS shall reopen and reprocess Claimant's June 11, 2010, MA and MA-retroactive applications in accordance with this decision and DHS policy and procedure.



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

Date Signed: February 8, 2011

Date Mailed: February 9, 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.

2011-7621/JL

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:

