

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-18116
Issue No.: 2000, 2006
Case No.: [REDACTED]
Hearing Date: January 11, 2012
County: Gratiot

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 telephone hearing was held on January 11, 2012, from Lansing, Michigan. Claimant did not appear but was represented by [REDACTED], Inc. Participants on behalf of Department of Human Services (Department) included [REDACTED] (DHS Lead Worker).

ISSUE

Did the Department properly deny Claimant's application for Medical Assistance (MA)?

FINDINGS OF FACT

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

1. Claimant applied for MA benefits on November 29, 2011. (Department Exhibits 1-4).
2. The Department opened Adult Medical Program (AMP) benefits for Claimant and deleted an application pending in [REDACTED] for Claimant brought by [REDACTED]. (Department Exhibit 4).
3. Claimant sought MA benefits based on an alleged disability.
4. The Department had been working with L&S Associates regarding Claimant's pending MA disability issues.

5. On April 4, 2011, the Department mailed a Medical Appointment Confirmation Notice (DHS-800) to Claimant which scheduled Claimant's medical appointment at Michigan Medical Consultants for April 23, 2011 at 2:00p.m. (Department Exhibit 59).
6. The Department did not send a copy of the DHS-800 to [REDACTED].
7. Claimant did not attend the scheduled medical appointment on April 23, 2011. There is no evidence that Claimant make an attempt to reschedule the appointment in advance.
8. On April 25, 2011, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied her MA application because she "failed to verify or allow the Department to verify necessary information." The denial was based on Claimant's failure to meet her scheduled appointment. (Department Exhibits 63-64).
9. The Department did not send a copy of the DHS-1605 to [REDACTED].
10. On October 5, 2011, [REDACTED] requested a hearing on behalf of Claimant. According to the Request for Hearing, Claimant's A [REDACTED] [REDACTED] did not receive notice of the denial until September 19, 2011. (Request for Hearing).

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.

Under BEM 260, the client is responsible for providing evidence needed to prove disability or blindness. However, the Department must assist the customer when they need your help to obtain it. BEM 260. Such help includes: (1) scheduling medical exam appointments and (2) paying for medical evidence and medical transportation. BEM 260.

Under BAM 815, the Department shall make all arrangements on behalf of the client for a medical exam or other diagnostic tests requested by the MRT or SSI advocate. Policy requires the Department to use the DHS-800, Medical Appointment Confirmation, to notify the client of a scheduled appointment. The DHS-800 tells the client: (1) the department will **not** pay for a missed appointment; (2) to call the physician, in advance, to reschedule if the client is unable to keep the appointment and (3) to call his specialist if assistance is needed in rescheduling the appointment. BAM 815.

A client who refuses or fails to submit to an exam necessary to determine disability or blindness cannot be determined disabled or blind and the Department should deny the application or close the case. BEM 260. It is not necessary to return the medical evidence to MRT for another decision in this instance. BEM 260.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

During the hearing on January 11, 2011, Claimant did not attend the hearing. Claimant's AHR indicated that Claimant was unable to attend the hearing due to a migraine headache. Claimant's AHR testified that Claimant was never sent the DHS-800, which scheduled her medical appointment. The Department responded that the DHS-800 was not returned as undeliverable.

The Administrative Law Judge finds that the testimony of Claimant's AHR is neither reliable nor credible. Claimant's AHR testimony regarding whether or not Claimant received the DHS-800 is, at best, hearsay; at worst, the testimony is simply not credible. Claimant was aware of her obligation to attend her scheduled appointment, but she failed to make her appointment. The fact that the Department did not mail a copy of the DHS-800 to Claimant's AHR is not relevant. Claimant was aware that she had an appointment and she failed to make her appointment. This Administrative Law Judge is not persuaded that had the Department sent the DHS-800 to Claimant's AHR, the result would have been different.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly denied Claimant's application for MA.

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 act properly.

Accordingly, the Department's MA decision is AFFIRMED for the reasons stated above and for the reasons stated on the record.

/S/

C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/17/12

Date Mailed: 1/17/12

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.

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.

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

