

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20124678
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: May 1, 2012
County: Macomb DHS (36)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on May 1, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant; [REDACTED] appeared as Claimant's translator and witness. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) benefits due to an alleged failure to return medical documents.

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 2/13/12, Claimant applied for MA benefits.
2. Claimant's only basis for MA benefits was based on being an allegedly disabled individual.
3. On 2/27/12, DHS mailed Claimant a Verification Checklist requesting various documents including: Medical Examination report (DHS-49), Authorization to Release Medical Information (DHS-1555) and Activities of Daily Living (DHS-49G).
4. The VCL noted a due date of 3/8/12 for the listed documents.

5. DHS did not receive the requested documents by the VCL due date.
6. On 3/12/12, DHS denied Claimant's application for MA benefits due to an alleged failure to timely return the DHS-49, DHS-1555 and DHS-49G.
7. On 3/26/12, Claimant requested a hearing to dispute the denial of 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). DHS 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.

For MA benefits, clients are given 10 calendar days to provide requested verification. BAM 130 at 5. If the client cannot provide the verification despite a reasonable effort, the time limit can be extended up to three times. *Id* at 6. DHS is to send a case action notice when (*Id.*):

- the client indicates refusal to provide a verification, or
- the time period given has elapsed.

DHS specialists have special requirements in processing requests for MA benefits based on disability. Among other requirements, DHS specialists are to complete a DHS-3503-MRT, Medical Review Verification Checklist, indicating the type of verification requested and give the client the DHS-3503-MRT, DHS-1555 and/or the examination report(s) to be completed by the health care provider. BAM 815 at 5.

In the present case, it was not disputed that Claimant was sent a DHS-3503-MRT requesting a DHS-49, DHS-49G and DHS-1555. DHS contended that Claimant's failure to return each of the documents within the 10 day due date justified denial of Claimant's application for MA benefits.

The DHS-49-G is optional and is not to be considered a requirement of the disability determination process. BAM 815 at 5. DHS may not justify denial of an application for MA benefits based on the failure to return an optional document. The DHS-49 and DHS-1555 are required forms that must be completed by the client (see BAM 815). Thus, a denial of MA benefits may rest on a failure to submit either of these forms.

Claimant's witness testified that she submitted a DHS-1555 (and DHS-49G) to DHS via an enclosed self-addressed stamped envelope. The witness recalled that the return

envelope had an address in Lansing, Michigan. It was not disputed that the documents should have been returned to the processing specialist in Sterling Heights and to an unspecified address in Lansing. The testifying DHS specialist testified that she could not conceive of a manner in which Claimant would have been sent a return envelope with an address of Lansing. Despite the confident testimony of the DHS specialist, Claimant's witness was equally confident about the return envelope having a mailing address of Lansing.

Concerning the DHS-49, Claimant stated that she gave the form to her doctor and relied on her doctor to return the form. The doctor stated that his office routinely returns medical documents to DHS but he was not able to provide testimony clarifying whether Claimant's DHS-49 was returned to DHS. Additional time was given for the physician's office to submit evidence whether the form was submitted to DHS. It should be noted that both parties waived their right to examine whatever forms were submitted by the doctor's office. Following the hearing, the doctor's office sent forms which tended to verify a fax date to DHS of 3/17/12 for a medical examination report written in a narrative format.

It should be noted that the DHS testimony that Claimant's forms were not submitted was persuasive, however, such evidence is not definitive proof that Claimant's forms were not received by DHS. Documents mailed to DHS are known to go through a chain of custody prior to reaching a DHS specialist. Thus, it is reasonably possible that Claimant's letters were misplaced or lost by DHS prior to making their way to the processing specialist.

In determining whether Claimant or DHS was responsible for DHS not timely receiving documents, the evidence tended to establish that a DHS-1555 was sent to an improper DHS office and medical examination forms were sent to DHS, but only after DHS denied the application. Generally, the evidence established client error more than DHS error. It is found that Claimant failed to establish timely returning a DHS-49 and DHS-1555 to DHS. Accordingly, it is found that DHS properly denied Claimant's application for MA benefits.

It is worth noting that Claimant can always reapply for MA benefits. Should Claimant have any back medical expenses, Claimant may apply for up to three months of retroactive MA benefit eligibility.

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 when denying Claimant's application dated 2/13/12 for MA benefits.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 9, 2012

Date Mailed: May 9, 2012

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

CG/hw

cc:

