

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201245637
Issue No: 2006, 4003
Case No: [REDACTED]
Hearing Date: May 24, 2012
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on April 4, 2012. After due notice, a telephone hearing was held on Thursday, May 24, 2012. The Claimant personally appeared and provided testimony and was [REDACTED] by his [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly closed the Claimant's Medical Assistance (MA) and State Disability Assistance (SDA) benefits cases due to his failure to attend a scheduled medical exam appointment?

FINDINGS OF FACT

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

1. The Claimant was an ongoing recipient of Medical Assistance (MA) and State Disability Assistance (SDA) benefits.
2. The Department initiated a routine review of the Claimant's benefits on November 30, 2011.
3. On February 15, 2012, the Medical Review Team (MRT) requested that the Claimant undergo a consultative examination to determine whether there had been medical improvements with respect to his disabling impairments.
4. On February 27, 2012, the Department sent the Claimant notice of a medical exam appointment scheduled for March 27, 2012.

5. On March 27, 2012, the Claimant notified the physician scheduled to examine him that he needed to reschedule his medical exam appointment that was scheduled for March 27, 2012.
6. On March 27, 2012, the Claimant notified the Department that he needed to reschedule his medical exam appointment that was scheduled for March 27, 2012.
7. The Claimant did not attend his medical exam appointment on March 27, 2012.
8. On March 30, 2012, the Department notified the Claimant that it would close his State Disability Assistance (SDA) and Medical Assistance (MA) as of May 1, 2012, for failing to attend his medical exam appointment.
9. The Department received the Claimant's request for a hearing on April 4, 2012, protesting the closure of his Medical Assistance (MA) and State Disability Assistance (SDA) 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 (DHS or Department) 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

The client is responsible for providing evidence needed to prove disability or blindness. The Department must assist the client when they need help obtaining this evidence. Such help includes the following:

- ❖ Scheduling medical exam appointments
- ❖ Paying for medical evidence and medical transportation

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 will deny the application or close the case. BEM 260.

The Department will make all arrangements on behalf of the client for a medical exam or other diagnostic tests requested by the MRT using the DHS-800, Medical Appointment Confirmation, to notify the client of a scheduled appointment. The DHS-800 tells the client:

- ❖ The department will not pay for a missed appointment.
- ❖ To call the physician, in advance, to reschedule if the client is unable to keep the appointment.
- ❖ To call his specialist if assistance is needed in rescheduling the appointment. BAM 815.

In this case, the Claimant was an ongoing recipient of Medical Assistance (MA) and State Disability Assistance (SDA) benefits. The Department initiated a routine review of the Claimant's benefits on November 30, 2011. On February 15, 2012, the Medical Review Team (MRT) requested that the Claimant undergo a consultative examination to determine whether there had been medical improvements with respect to his disabling impairments.

On February 27, 2012, the Department sent the Claimant notice of a medical exam appointment scheduled for March 27, 2012.

On March 27, 2012, the Claimant contacted the physician's office to reschedule his medical exam appointment scheduled for March 27, 2012. After contacting the physician's office, the Claimant notified the Department that he needed to reschedule his medical exam appointment scheduled for March 27, 2012. The Claimant did not attend his medical exam appointment on March 27, 2012.

On March 30, 2012, the Department notified the Claimant that it would close his State Disability Assistance (SDA) and Medical Assistance (MA) as of May 1, 2012, for failing to attend his medical exam appointment. The basis for this closure was that the Claimant did attend his medical exam appointment, or attempt to reschedule to appointment in a timely manner. The Department's representative testified that it is a generally accepted practice of the Department to require clients to provide at least 24 hours notice before rescheduling a medical exam appointment.

This Administrative Law Judge was unable to locate any Department policy justifying the requirement that clients provide at least 24 hours notice before rescheduling a medical exam appointment. No evidence was provided during the hearing that the Department considered the Claimant's individual circumstances or that it made a determination concerning the validity of the Claimant's need to reschedule his appointment. This Administrative Law Judge finds that the Department's practice of requiring at least 24 hours notice before making a request to reschedule a medical

exam appointment to be arbitrary, capricious, and not supported by any Department policy.

This Administrative Law Judge finds that the Claimant did not refuse to attend his medical exam appointment and that he had good cause for his failure to attend. The Claimant relied on the DHS-800, which instructed him to reschedule his appointment if he was unable to attend. This Administrative Law Judge finds that the Department improperly closed the Claimant's Medical Assistance (MA) and State Disability Assistance (SDA) benefits for failing to attend his medical exam appointment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly closed the Claimant's Medical Assistance (MA) and State Disability Assistance (SDA) benefits for failing to attend a scheduled medical exam appointment.

Accordingly, the Department's Medical Assistance (MA) and State Disability Assistance (SDA) eligibility determinations are **REVERSED**. It is further **ORDERED** that the Department shall:

1. Reschedule the Claimant for a consultative examination.
2. Initiate a determination of the Claimant's eligibility for Medical Assistance (MA) and State Disability Assistance (SDA) as of May 1, 2012.
3. Provide the Claimant with written notification of the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.

/s/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 4, 2012

Date Mailed: June 4, 2012

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 60 days of the filing of the original request.

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.

KS/tb

cc:

