

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

IN THE MATTER OF:



Reg. No.: 201226238
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: May 10, 2012
County: Macomb (20)

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 10, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant; [REDACTED] appeared as Claimant's translator and authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's MA benefit eligibility effective 12/2011 due to Claimant's alleged failure to comply with redetermination requirements.

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's child was an ongoing MA benefit recipient.
2. Claimant's child's MA benefit eligibility was scheduled for redetermination prior to the end of 12/2011.
3. On 11/15/11, DHS mailed Claimant a Healthy Kids Redetermination Notice informing Claimant to return the enclosed Healthy Kids application to DHS by 12/1/11.
4. Claimant returned the Healthy Kids application to DHS.

5. On 12/17/11, DHS mailed Claimant a Notice of Case Action informing Claimant of the termination of MA benefit eligibility effective 1/2012 due to Claimant's failure to return the Healthy Kids application.
6. On 12/27/11, Claimant requested a hearing to dispute the MA benefit termination.

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.

DHS must periodically redetermine an individual's eligibility for benefit programs. BAM 210 at 1. A complete redetermination is required at least every 12 months. *Id.*

The redetermination process begins with DHS mailing a redetermination packet in the month prior to the end of the benefit period. *Id.* at 5. The packet consists of forms and requests for verification that are necessary for DHS to process the redetermination. The forms needed for redetermination may vary, though a Healthy Kids (HK) application is an appropriate form for a redetermination of MA benefits for a minor child.

Claimant contended that he timely returned the HK application to DHS. DHS contended that Claimant's HK application was not received.

Claimant's son testified that he personally dropped off the application at the DHS office. He stated that he left the application with a security guard who promised him that he would forward the application appropriately. Claimant's testimony concerning this issue was questionable. It is believed that most persons would not leave important documents with a security guard, a person with no direct affiliation with the DHS office. It is also curious why the security guard would not have directed Claimant's son to sign a log as verification that a document submission was made. This testimony tended to support finding that an HK application was not timely returned.

Claimant's son also testified that 2-3 HK applications were returned to DHS over the course of the next several weeks. He stated that DHS failed to process any of the applications. Generally, DHS is more likely to misplace one document rather than 2-3 documents submitted at various times. This testimony also tended to support the DHS contention that Claimant failed to timely return the HK application.

It was not disputed that Claimant requested a hearing on 12/27/11, only 10 days after DHS mailed the Notice of Case Action informing Claimant of the MA benefit termination. Clients that request hearings shortly after being notified of a case closure tends to demonstrate clients that are responsive to returning documents to DHS; alternatively, it demonstrates clients trying to comply with procedural requirements if a requirement is overlooked. A hearing request puts DHS on notice that a client is trying to comply with redetermination requirements but might need assistance in complying. This evidence tends to support Claimant's son's testimony and that Claimant complied with DHS redetermination procedures.

Claimant's son also testified that he recalled phoning the DHS specialist but that he did not leave her a voicemail message. Thus, Claimant left the DHS specialist with no reason to contact Claimant for information in complying with redetermination procedures.

It should be noted that the testifying DHS specialist credibly testified that she did not recall receiving Claimant's HK application. It is also worth noting that it is reasonably possible that a document could have been returned to DHS though it was misplaced within the chain of custody prior to finding its way to the appropriate specialist.


Though Claimant's son's testimony concerning the details of returning a Redetermination to DHS raised some concerns, the testimony was unrefuted. Giving Claimant and his son the benefit of doubt, it is found that Claimant timely returned the HK application to DHS. Accordingly, the MA benefit termination was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's child's MA benefit eligibility effective 1/2012. It is ordered that DHS:

- (1) reinstate Claimant's MA benefit eligibility effective 1/2012;
- (2) process Claimant's son's MA benefit eligibility subject to the finding that Claimant timely returned a completed HK application.

The actions taken by DHS are REVERSED.


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

Date Signed: May 16, 2012

Date Mailed: May 16, 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:

