

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

IN THE MATTER OF:



Reg. No.: 201235005
Issue No.: 2006, 4003
Case No.: [REDACTED]
Hearing Date: April 19, 2012
County: Tuscola County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 April 19, 2012, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Authorized Representative). Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

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

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 December 14, 2011, the Claimant with the assistance of [REDACTED] completed an application for MA and SDA benefits.
2. On December 14, 2011, the Claimant and [REDACTED] completed a MA and/or SDA Authorization of Representative form. The form declared [REDACTED] as the Claimant's Authorized Representative (AR).
3. On December 15, 2011, the Department mailed [REDACTED] a 3503-MRT, DHS 49, DHS 49-D, DHS 49-E, DHS 49-F, DHS 49-G and a 1555. The Department mailed the forms to Ms. Tacey's listed address on the Authorized Representative form.

4. On January 4, 2012, the Department denied the Claimant's application for MA and SDA benefits indicating the Claimant had failed to turn in the requested verifications.
5. On January 30, 2012, Ms. Tacey filed a timely hearing request, protesting the MA and SDA application denial.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The SDA program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACRS, R 400.3151 through Rule 400.3180.

The MA program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

In this case, the Department mailed the Claimant's AR the relevant verification materials related to the Claimant's MA and SDA application. The material was timely sent to the AR's listed address on the authorized representative form.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. An AR assumes all the responsibilities of a client. An AR is person who applies for assistance on behalf of the client and/or otherwise acts on his/her behalf. (BAM 110).

Therefore, Ms. Tacey assumed all the responsibilities of the client in this matter when Ms. Tacey accepted the role as the Claimant's AR. Because the Department mailed the application materials to Ms. Tacey, I find this meets the notice requirement.

Because the Claimant's AR alleges to have not received the notices, this issue concerns the application of "the mailbox rule."

Under the mailbox rule "a letter mailed in the due course of business is received." *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Such evidence is admissible without further evidence from the records custodian that a particular letter was actually mailed. *Good supra* at 275. "Moreover, the fact that a letter was mailed with a return address but was not returned lends strength to the presumption that the letter was received." *Id* at 276. The challenging party may rebut the presumption that the letter was received by presenting evidence to the contrary. See *id*.

The Department has produced sufficient evidence of its business custom with respect to addressing and mailing of the notices in question. Under the mailbox rule, the mere execution of the DHS forms in the usual course of business rebuttably presumes subsequent receipt by the addressee. *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The Department has produced sufficient evidence of its business custom with respect to the mailing of the DHS notices allowing it to rely on this presumption. Claimant's AR, on the other hand, argues that she did not receive the notices. Despite making this argument, Claimant has not come forward with sufficient evidence to rebut the presumption.

Therefore, based on material, competent and substantial evidence, I find the Department properly denied the Claimant's application for MA and SDA benefits as the Claimant and the Claimant's AR failed to return the requested verifications.

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Department did act properly in this matter.

Accordingly, the Department's FIP decision is **AFFIRMED**.

/s/ _____
Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: April 20, 2012

Date Mailed: April 20, 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

CAA/cr

cc:

