

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201253142
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: June 14, 2012
Wayne County DHS (49)

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 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on June 14, 2012 from Detroit, Michigan. The above named claimant appeared and testified; [REDACTED] testified and appeared as Claimant's authorized hearing representative (AHR). On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) and State Disability Assistance (SDA) benefits based on Claimant's failure to attend medical appointments.

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 1/9/12, Claimant applied for MA and SDA benefits.
2. As part of Claimant's application for MA and SDA benefits, Claimant alleged that he was a disabled individual.
3. On 4/6/12, DHS mailed Claimant notice of two medical appointments scheduled for 4/19/12.
4. Claimant did not attend the medical appointments.

5. On 5/8/12, DHS mailed a Notice of Case Action informing Claimant that the MA and SDA benefit programs were denied due to Claimant's failure to attend scheduled medical appointments.
6. On 5/15/12, Claimant requested a hearing to dispute the MA and SDA benefit application denial.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. DHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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).

In the present case, DHS denied Claimant's MA benefit application due to Claimant's undisputed failure to attend medical appointments scheduled on his behalf. DHS policy has some support for denying an application based on a missed medical appointment.

The client is responsible for providing evidence needed to prove disability or blindness. BEM 260 at 4. However, DHS must assist the customer when they need help to obtain it. *Id.* Such help includes scheduling medical exam appointments and paying for medical evidence and medical transportation. *Id.* A client who refuses or fails to submit to an exam necessary to determine disability or blindness cannot be determined disabled or blind and you (the assigned specialist) should deny the application or close the case. *Id.* It is not necessary to return the medical evidence to MRT for another decision in this instance. *Id.*

An application denial based on a failure by a client to attend medical appointments requires proof that Claimant knew of the appointments. This requirement is supported by common sense. It is somewhat implied in the DHS regulation which refers to a client who "refuses or fails to" attend a medical appointment. "Fails to" suggests some fault for not attending the appointment. DHS would not likely have intended that a client who faultlessly failed to attend a medical appointment should be penalized.

It was not disputed that DHS notified Claimant of the appointments via mail. The appointments were for 4/19/12 at 11:00 a.m. and 12:00 p.m. Presumably, the notices were sent in a single envelope.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Claimant did not dispute the incorrectness of the address DHS relied on to mail the appointments.

Claimant and his mother testified that Claimant was living at a transitional residence for parolees at the time that the medical appointments were mailed. The testimony established that Claimant was living with several other persons. Claimant and his mother also testified that incoming mail was often poorly distributed to the residents of the facility. Claimant's and his mother's testimony concerning incoming mail at Claimant's previous residence was detailed and logical; this supports a finding that the testimony was credible. It is found that Claimant, through no fault of DHS, did not receive notice of medical appointments related to MA and SDA program requests. Without receiving notice, Claimant cannot be held responsible for missing the appointments. Accordingly, the DHS denial of Claimant's MA and SDA application dated 1/9/12 is found to be improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA and SDA benefits dated 1/9/12. It is ordered that DHS:

- (1) reinstate Claimant's application dated 1/9/12 requesting MA and SDA benefits; and
- (2) process Claimant's application for MA and SDA benefits subject to the finding that Claimant did not receive notice of the medical appointments scheduled for 4/19/12.

The actions taken by DHS are REVERSED.



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

201227538/CG

Date Signed: June 22, 2012

Date Mailed: June 22, 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:

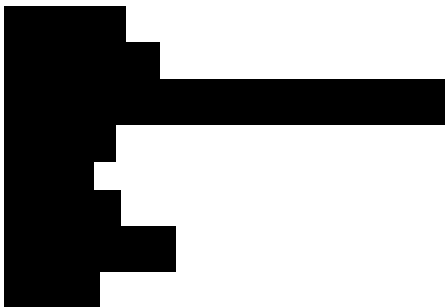
- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical 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 to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:



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