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

IN THE MATTER OF:

[redacted]

Reg. No.: 2013-14437
Issue No.: 2006, 2018, 4003
Case No.: [redacted]
Hearing Date: April 11, 2013
County: Lenawee County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before the undersigned Administra tive Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's r equest for a hearing. After due notice, a telepho ne hearing was held on April 11, 2013, fr om Lansing, Michigan. Part icipants on behalf of Claimant included [redacted] and [redacted] Participants on behalf of Department of Human Services (Department) included [redacted]

ISSUE

Due to the Claimant's failure to attend mental status exam appointments, did the Department properly deny Claim ant's app lication for Medical Assist ance (MA) and State Disability Assistance (SDA) benefits?

FINDINGS OF FACT

I find as material fact based upon the competen t, material, and substant ial evidence on the whole record:

1. On August 27, 2012, the Claimant applied for MA and SDA benefits.

2. On September 20, 2012, the Medial Rev iew Team (MRT) returned to the Department a Medical-Social Eligibility Cert ification form requesting a mental status exam and addition al medical records.

3. The Depar tment scheduled mental status exam appointments for the Claimant. Those dates were October 25, 2012, November 1, 2012, November 8, 2012 and November 14, 2012. The Claimant did not make it to a single mental status exam.

4. The Depar tment scheduled phys ical status exam appointments for the Claimant. Those dates were October 19, 2012, November 2, 2012 Nov ember 9, 2012 and November 1 6, 2012. The Claimant did not make it to a single physical status exam.
5. The Claimant rescheduled two appointments herself and later cancelled those appointments as well.

6. On November 13, 2012, the Department denied the Claimant's application for MA and SDA benefits for insufficient medical.

7. On November 26, 2012, the Claimant requested a hearing to dispute the denial of the MA/SDA application.

8. Between October 25, 2012 and November 16, 2012, the Department and the Claimant communicated with one another regarding transportation issues.

CONCLUSIONS OF LAW

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

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.

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

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. (BAM 600).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. (BAM 105). This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. (BAM 105).

Payment for medical transportation may be authorized only after it has been determined that it is not otherwise available, and then for the least expensive available means suitable to the client's needs. (BAM 825).

Covered medical transportation includes transportation to obtain medical evidence. (BAM 825). In order to receive medical transportation, the Department must evaluate a client's request for medical transportation to maximize use of existing community resources. The client's needs for transportation and access to resources need to be appropriately assessed. (BAM 825).
Local offices may authorize and pay for travel for one trip for examination and one trip per MRT recommendation for client's claiming disability or blindness. (BAM 825).

Testimony and other evidence must be weighed and considered according to its reasonableness.[1] Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine.[2] In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter.[3]

I have carefully considered and weighed the testimony and other evidence in the record and find no evidence that the Department properly vetted the Claimant's need for transportation. There is no dispute as to whether or not the Claimant had transportation issues getting to the assigned appointments. And the Claimant's failure to attend a single appointment and self reliance on several questionable methods of transportation clearly shows a transportation issue.

Because the Claimant had clear verifiable transportation issues, the Department should have done more to acquire a viable means of transportation for the Claimant in accordance with BAM 825.

Accordingly, the Department's actions in this matter are reversed.

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 not act properly.

Accordingly, the Department's decision is **REVERSED**.

☒ THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a redetermination as to the Claimant's eligibility for MA and SDA benefits beginning August 27, 2012 and issue retroactive benefits if otherwise eligible and qualified.

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

Date Signed: April 12, 2013

Date Mailed: April 12, 2013

[1] *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007).
[2] *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).
[3] *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

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 receipt 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/las

cc: [redacted]