

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201317443
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: May 2, 2013
County: Wayne DHS (19)

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 2, 2013, from Detroit, Michigan. The above-named Claimant did not appear. [REDACTED] appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) benefits due to a failure by Claimant to submit evidence of disability.

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 8/29/12, Claimant applied for MA benefits based on disability.
2. Claimant's application listed an authorized representative.
3. On 10/11/12, DHS mailed a Verification Checklist (VCL) (Exhibit 2) to Claimant's AR requesting proof of Claimant's disability.
4. On 10/16/12, DHS denied Claimant's MA benefit application due to a failure by Claimant to submit proof of disability.

5. On 11/29/12, Claimant's AR (also Claimant's AHR), submitted a hearing request to DHS to dispute the MA application denial.

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).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that the request noted that Claimant required special arrangements to participate in the administrative hearing. The hearing was completed without any requests cited by Claimant's AHR concerning special arrangements.

The present case concerned the denial of a MA benefit application. It was not disputed that the denial occurred because of an alleged failure by Claimant to provide proof of disability. It was also not disputed that Claimant's application for MA benefits listed an AR.

An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (for example, to obtain FAP benefits for the group). BAM 110 (1/2011), p. 7. The AR assumes all the responsibilities of a client. *Id.*, p. 8.

For all programs, DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5/2012), pp. 2-3. DHS must give clients at least ten days to submit verifications. *Id.*, p. 3 DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 2. For MA benefits, if the client cannot provide the verification despite a reasonable effort, DHS is to extend the time limit up to three times. *Id.*, p. 2. DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification, or
- the time period given has elapsed.

Id., p. 6.

DHS presented a VCL (Exhibit 2) dated 10/3/12. The testifying specialist contended that the VCL was mailed to Claimant's AHR on 10/3/12. DHS did not present evidence to verify a VCL mailing date. Claimant's AHR presented what appeared to be a copy of the envelope (Exhibit 1) in which the VCL was mailed. The envelope had a postmark date of 10/11/12. During the hearing, DHS received a copy of the envelope and did not make any arguments to dispute the testimony of Claimant's AR/AHR. Based on the presented evidence, it is found that DHS mailed the VCL to Claimant's AR on 10/11/12.

It was not disputed that DHS denied Claimant's MA benefit application on 10/16/12. The five days (which included two non-business days) between the date of mailing and the denial is an insufficient timeframe for a verification deadline.

DHS contended that even if insufficient time was provided, Claimant's AR could have, and should have requested additional time to submit verification. DHS policy allows clients or representatives to make such requests. The policy was implemented to give clients more than 10 days to submit records, which often may take much longer to submit. The policy was not implemented to allow DHS to shift blame when they fail to comply with their notice requirements. The DHS contention was highly unpersuasive.

DHS contended that Claimant could have also requested an extension to the deadline. Once again, the DHS contention is an attempt to shift blame. As noted above, DHS policy extends a client's rights to the rights of an AR. One of those rights is the right to receive DHS requests for verification and to have the same timeframes as a client to comply with the request. DHS may not excuse themselves for improper AR notice by getting the client notice right; one out of two is not good enough.

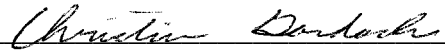
Based on the presented evidence, it is found that DHS failed to give sufficient time for Claimant's AR to comply with a verification request. Accordingly, the MA benefit denial based on a failure to timely submit verification is found to be improper.

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 benefits. It is ordered that DHS:

- (1) reinstate Claimant's MA application dated 8/29/12, subject to the finding that DHS failed to properly request verification of disability; and
- (2) re-request verification of Claimant's disability in accordance with DHS regulations.

The actions taken by DHS are REVERSED.


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

Date Signed: 5/14/2013

Date Mailed: 5/14/2013

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:

