

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

IN THE MATTER OF:



Reg. No.: 201327544
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: May 23, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Medical Contact Worker.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) and State Disability Assistance (SDA) cases?

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 was an ongoing recipient of SDA and MA based on a finding by the Medical Review Team (MRT) that he was disabled.
2. On January 24, 2013, the Department closed Claimant's SDA and MA cases effective March 1, 2013, because Claimant failed to return documentation necessary to complete his disability determination.
3. On February 1, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

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

The Medical Assistance (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 of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (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 Mich Admin Code, R 400.3151 through R 400.3180.

On January 24, 2013, the Department sent Claimant a Notice of Case Action notifying him that effective March 1, 2013 it would close his SDA and MA cases because he had failed to return documentation necessary to complete his disability determination. At the hearing, the Department explained that it closed Claimant's cases because it became aware that the Social Security Administration (SSA) had denied Claimant's application for federal disability-related benefits, Claimant had not filed an appeal of the SSA's decision, and the time for appeals had lapsed.

Clients who receive state-funded SDA who meet potential eligibility for federal supplemental security income (SSI) benefits or have a MRT decision that indicates they meet the criteria for MA based on blindness or disability are required to pursue SSI. BEM 271 (June 2012), p 1; BEM 270 (May 2013), p 1.

In this case, Claimant filed an application with SSA. The evidence established that an SSA administrative law judge denied Claimant's application on October 18, 2012 (Exhibit 1, pp 22-39). A client must file an Appeals Council review of an SSI denial within 60 days of the SSI hearing decision date. BEM 271, p 6. Once the Department becomes aware of an SSI hearing decision denial, it must send the client a DHS-1551, Notice to Apply, a DHS-1552, Verification of Application or Appeal for SSI/RSDI, and a return envelope. BEM 271, p 7.

In this case, on December 10, 2012, the Department contacted Claimant by phone and sent him a Quick Note notifying him that it needed verification on SSA letterhead that he had filed an appeal of SSA's decision. The note indicated that a letter from Claimant's lawyer would not be sufficient and notified him that his cases would close if verification was not received by December 18, 2012. The Department further established that it faxed a DHS-1552 to SSA on December 14, 2012 and January 22, 2013, and sent a DHS1552 to Claimant on January 4, 2013 and January 22, 2013. While the Department did not send Claimant a DHS-1552 at the time it became aware of the SSI hearing

decision, the Quick Note adequately notified Claimant that he was required to file an appeal of his SSA decision by December 18, 2012, and the type of verification required.

In response to the Department's note, on December 14, 2012, Claimant's SSI attorney faxed the Department a copy of the firm's December 14, 2012, letter to SSA Appeals Council requesting an appeal of the October 12, 2012 decision of the SSA administrative law judge denying Claimant's SSI case. Department policy requires that *the Department* verify that a timely Appeals Council review was filed. See BEM 271, pp 7-8. Acceptable verification of SSA's disposition of a client's case includes a DHS-1552, a Single Online Query (SOLQ), or a documented telephone contact or written acknowledgment from SSA. BEM 271, p 7. While the Quick Note the Department sent Claimant required that he verify that an appeal was filed, the Department ran an SOLQ and directly contacted SSA by faxing a DHS-1552 to SSA. Thus, although the Department improperly required Claimant to verify the appeal, it rectified its error when it attempted to verify the appeal itself.

SSA returned the completed DHS-1552 on January 23, 2013, indicating that Claimant had not appealed his October 18, 2012 hearing decision as of January 23, 2013. The SOLQ also failed to show an appeal of Claimant's unfavorable decision. If a client is not cooperating with the SSI application process, the Department must close state-funded SDA and MA. BEM 271, p 7. Because the Department did not receive acceptable verification that an Appeals Council review had been filed with SSA concerning the October 12, 2013 hearing decision and October 18, 2013 notice of dismissal, which found Claimant ineligible for SSI benefits based on disability, the Department acted in accordance with Department policy when it closed Claimant's SDA and MA case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in accordance with Department policy when it closed Claimant's SDA and MA cases.

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 6/12/2013

Date Mailed: 6/12/2013

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

ACE/hw

cc:

