

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-10413
Issue No: 2006; 4031
Case No: [REDACTED]
Hearing Date: April 11, 2013
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on April 11, 2013. Claimant personally appeared and testified. Claimant was represented at the hearing by his sister and Authorized Hearings Representative [REDACTED] [REDACTED].

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application based upon its determination that claimant failed to provide verification information in a timely manner?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) On March 16, 2012, claimant filed an application for Medical Assistance, Retroactive Medical Assistance and State Disability Assistance benefits alleging disability.
- (2) On June 12, 2012, the Medical Review Team deferred claimant's application and requested additional medical testing in the form of IQ testing and physical examination.
- (3) On June 22, 2012 the department caseworker sent claimant a New Hire Notice (DHS-4635) with information due July 2, 2012.
- (4) On July 13, 2012, the verification was not returned.
- (5) Claimant's application was denied.

- (6) On August 8, 2012, claimant reapplied for benefits MA-P, Retro MA-P and SDA and his documents were submitted to the Medical Review Team.
- (7) On November 13, 2012, claimant filed a request for a hearing to contest the department's negative action.
- (8) On November 29, 2012, the Medical Review Team approved claimant for Medical Assistance from May 1, 2012 forward and for State Disability Assistance based upon mental and physical disability.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). 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.

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). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Relevant policy can be found at PAM, Item 130, which instructs caseworker to tell the client what verification is required, how to obtain it and the due date. The client must obtain required verification but the caseworker must assist if the client requests assistance.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. BEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, page 1.

If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, offer to assist the individual in the gathering of such information. BEM, Item 130, page 1.

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BEM, Item 130, page 5.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center.

There are two types of written notice: **adequate** and **timely**.

A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

Adequate Notice

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pending). Adequate notice is given in the following circumstances:

All Programs

- Approval/denial of an application.
- Increase in benefits. BAM, Item 220, pages 1-2

In the instant case, claimant is contesting the denial of his March 16, 2012 application for MA-P, Retro MA-P and SDA. Claimant testified that he did not receive notice of the denial of his application. According to the department caseworker, a DHS 1605 Notice of hearing was sent to [REDACTED] on June 7, 2012 for failure to provide necessary information. The notice does not specify what specific information claimant failed to provide to the department. Pursuant to the application, claimant's mail was to be sent to [REDACTED]. However, the New Hire Client Notice requesting verification of employment information was sent to the [REDACTED] address on June 22, 2012. New information was not due to be provided until July 2, 2012. The department caseworker testified on the record that the information that was not returned was the New Hire Notice information, the request for which was not sent to claimant until June 22, 2012. The notices in the evidence are sent out on June 7, 2012 and July 13, 2012. Thus, the department has not established that claimant was sent appropriate notice of case action for failure to provide the new hire information.

There is no other evidence contained in the file that claimant failed to provide any other verification information. The caseworker who worked on the March 16, 2012 application was not present at the hearing. No one from the department who attended the hearing could testify from personal knowledge as to what happened in the case. There is insufficient evidence contained in the file to determine that claimant failed or refused to provide verification evidence for the March 16, 2012 application. In addition, claimant's application was deferred for IQ testing, which indicates that claimant has some cognitive challenges and requires assistance in completing the application process. The department is to offer to assist claimants who indicate that they have a disability, pursuant to department policy at BAM, Item 130, page 1. It was clear at the hearing that claimant does have some cognitive deficiencies which impair his ability to provide verification information to the department. The department has not established by the necessary, competent, substantial and material evidence contained in the record that claimant failed or refused to provide verification evidence in this case, that he was sent appropriate notice of negative action or that it offered to assist claimant in collecting and providing verification evidence in accordance with department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the department has not established by a preponderance of the evidence that claimant failed or refused to provide verification information.

Accordingly, the department's prior decision is **REVERSED**.

The department is ORDERED to reinstate claimant's March 16, 2012 application for Medical Assistance, Retroactive Medical Assistance and State Disability Assistance. The department shall make an assessment of claimant's eligibility or lack thereof for December 2011 forward for Medical Assistance and March 16, 2012 forward for State Disability Assistance and shall provide claimant and his authorized hearings representative, in writing, notice of his eligibility or lack thereof for the requested benefits. If claimant is otherwise eligible, the department shall pay to claimant any State Disability Assistance benefits that he is eligible for from March 16, 2012 forward and shall open an ongoing Medical Assistance case for claimant from December 2011 forward.

/s/

Landis

Y. Lain
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 17, 2013

Date Mailed: April 17, 2013

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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:

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- 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

LYL/las

cc:

