

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201327972  
Issue No.: 2009; 4031  
Case No.: [REDACTED]  
Hearing Date: May 15, 2013  
County: Baraga

**ADMINISTRATIVE LAW JUDGE:** Janice G. Spodarek

**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, a telephone hearing was held on May 15, 2013. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (DHS) included [REDACTED].

**ISSUE**

Did the Department of Human Services (DHS) properly deny Claimant's Medical Assistance (MA) and State Disability Assistance (SDA) at review?

**FINDINGS OF FACT**

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

1. At all relevant times prior to the negative action herein, Claimant was a recipient of MA-P and SDA with the Michigan DHS.
2. The DHS testified that Claimant was previously approved MA-P and SDA by MRT in 2009. The DHS stipulated that the DHS erred to have the case reviewed at any time since 2009.
3. The DHS testified that it caught the error in August, 2012 and that the case had never been reviewed. The DHS completed a DHS-A for MRT and incorrectly indicated that Claimant had a new application date of 8/31/12 and did not indicate that the case was a review case. The DHS failed to include the old MRT approval and/or any medicals on Claimant's previously case.

4. On 12/19/12, the MRT denied applying a new application legal standard and did not apply a review standard. There was no indication in the file that case should have been reviewed.
5. On 12/26/12, the DHS issued a notice that Claimant was denied as MRT denied his new application of 8/31/12.
6. On 1/30/13, Claimant filed a hearing request. The DHS did not reinstate the action pending the outcome of the hearing.
7. On 4/11/13, the State Hearing Review Team (SHRT) denied Claimant applying a new application standard and not a review standard.
8. The DHS erred in completing the DHS-49A. Neither MRT nor SHRT applied the improvement legal standard. The burden of proof is on DHS.

### **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). 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 (PAM), the Program Eligibility Manual (PEM) 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).

Statutory authority for the SDA program states in part:

- (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

In order to receive MA benefits based upon disability or blindness, Claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20 CFR 416.901). DHS, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance

Claimants pay their medical expenses. Michigan administers the federal Medicaid program. In assessing eligibility, Michigan utilizes the federal regulations.

In this case, Claimant's case should have been classified as a review case as a different legal standard is applied. In review cases, the DHS has the burden of proof. At application, Claimant has the burden of proof.

There are also additional steps at review that the law requires the DHS to apply with regards to showing improvement. These Federal regulations found at:

...the medical evidence we will need for a continuing disability review will be that required to make a current determination or decision as to whether you are still disabled, as defined under the medical improvement review standard.... 20 CFR 416.993.

...In some instances, such as when a source is known to be unable to provide certain tests or procedures or is known to be nonproductive or uncooperative, we may order a consultative examination while awaiting receipt of medical source evidence. Before deciding that your disability has ended, we will develop a complete medical history covering at least the 12 months preceding the date you sign a report about your continuing disability status.... 20 CFR 416.993(b).

...If you are entitled to disability benefits as a disabled person age 18 or over (adult) there are a number of factors we consider in deciding whether your disability continues. We must determine if there has been any medical improvement in your impairment(s) and, if so, whether this medical improvement is related to your ability to work. If your impairment(s) has not so medically improved, we must consider whether one or more of the exceptions to medical improvement applies. If medical improvement related to your ability to work has not occurred and no exception applies, your benefits will continue. Even where medical improvement related to your ability to work has occurred or an exception applies, in most cases, we must also show that you are currently able to engage in substantial gainful activity before we can find that you are no longer disabled. 20 CFR 416.994(b).

**Medical improvement.** Medical improvement is any decrease in the medical severity of your impairment(s) which was present at the time of the most recent favorable medical

decision that you were disabled or continued to be disabled. A determination that there has been a decrease in medical severity must be based on changes (improvement) in the symptoms, signs and/or laboratory findings associated with your impairment(s).... 20 CFR 416.994(b)(1)(i).

**Medical improvement not related to ability to do work.**

Medical improvement is not related to your ability to work if there has been a decrease in the severity of the impairment(s) as defined in paragraph (b)(1)(i) of this section, present at the time of the most recent favorable medical decision, but no increase in your functional capacity to do basic work activities as defined in paragraph (b)(1)(iv) of this section. If there has been any medical improvement in your impairment(s), but it is not related to your ability to do work and none of the exceptions applies, your benefits will be continued.... 20 CFR 416.994(b)(1)(ii).

**Medical improvement that is related to ability to do work.**

Medical improvement is related to your ability to work if there has been a decrease in the severity, as defined in paragraph (b)(1)(i) of this section, of the impairment(s) present at the time of the most recent favorable medical decision **and** an increase in your functional capacity to do basic work activities as discussed in paragraph (b)(1)(iv) of this section. A determination that medical improvement related to your ability to do work has occurred does not, necessarily, mean that your disability will be found to have ended unless it is also shown that you are currently able to engage in substantial gainful activity as discussed in paragraph (b)(1)(v) of this section.... 20 CFR 416.994(b)(1)(iii).

In this case it is also noted that the DHS failed to process this case as is required under its own policy and procedure found in BAM Item 261, and 815, as well as the general redetermination policy and procedure processing.

The DHS is required to meet its burden of proof. The DHS has failed to meet its burden of proof in this case as it could not do so as the DHS failed to give the MRT correct instructions. Under Federal and State law, the DHS erred and thus, is reversed to apply the correct the standard.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were incorrect.

Accordingly, the department's determination in this matter is REVERSED.

The DHS is ordered to:

1. Immediately reinstate Claimant's MA-P and SDA if it has not already done so.
2. Update Claimant's medical file prior to sending the case to MRT.
3. The DHS is ordered to send this case back to the MRT correctly completing the DHS-49A by indicating the case is a review case. The DHS should include Claimant's prior medical packet and the prior MRT DHS-49A verification of Claimant's prior approval.
4. The DHS is ordered to Follow its usual policy and procedure upon the receipt of MRT decision with regards to informing Claimant as to the MRT decision. If Claimant is denied he shall have a right to a hearing as indicated on the Notice.

/s/

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Janice G. Spodarek  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 5/31/13

Date Mailed: 5/31/13

**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 mailing 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

JGS/tb

cc:

