

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201354762
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: July 25, 2013
County: Wayne DHS (35)

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 July 25, 2013, from Detroit, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's nephew, testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Adult Medical Program (AMP) eligibility due to an alleged failure by Claimant to submit a Redetermination.

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 AMP benefit recipient.
2. Claimant's AMP benefit period was scheduled to end on 5/31/13.
3. On 4/15/13, DHS mailed Claimant a Redetermination.
4. On 5/17/13, DHS mailed a Notice of Case Action informing Claimant of a termination of AMP benefits, effective 6/2013, due to a failure by Claimant to return a Redetermination.
5. On 5/28/13, Claimant returned a Redetermination to DHS.

6. DHS failed to acknowledge receipt of Claimant's Redetermination.
7. On 6/25/13, Claimant requested a hearing to dispute the AMP termination.

CONCLUSIONS OF LAW

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

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.* AMP is part of the MA benefit program.

The present case concerns a termination of AMP benefits, effective 6/2013. It was not disputed that the basis for termination was Claimant's alleged failure to return a Redetermination. It was also not disputed that Claimant failed to return the Redetermination to DHS by 5/17/13, the date that DHS initiated AMP benefit termination.

For all programs, DHS must periodically redetermine an individual's eligibility for active benefit programs. BAM 210 (11/2012), p. 1. A complete redetermination is required at least every 12 months. *Id.* The redetermination process begins with DHS mailing a redetermination packet in the month prior to the end of the benefit period. *Id.*, p. 5. The packet consists of forms and requests for verification that are necessary for DHS to process the redetermination. The forms needed for redetermination may vary, though a Redetermination (DHS-1010) is an acceptable review form for all programs.

For AMP redeterminations, verifications are due the same date as the redetermination/review interview. *Id.*, p. 11. Bridges gives timely notice of the negative action if the time limit is not met. *Id.*

Claimant testified that he returned a Redetermination to DHS on 5/28/13. Two issues arose from Claimant's testimony. The first was whether he returned a Redetermination to DHS on 5/28/13.

Claimant noted in his written hearing request that he returned the Redetermination to DHS on 5/28/13 and that his specialist told him that he was "straight". Claimant's written statement was consistent with Claimant's testimony. Generally, persons are more credible when their written statements are consistent with testimony.

Claimant brought his nephew to the hearing. Claimant's nephew corroborated Claimant's testimony. Generally, corroboration makes testimony more credible.

Claimant also provided a fair amount of detail of how he submitted the Redetermination to DHS. Generally, more details increase the likelihood of testimony being credible.

Claimant's testimony was also not rebutted. Claimant's specialist could have testified that she never received Claimant's Redetermination or that she told Claimant that his paperwork was "straight". No such testimony was presented.

DHS presented testimony that all document submissions are logged by staff and that Claimant's name did not appear on the log for 5/28/13. The specialist also testified that 196 names were on the paperwork and that a computer search for Claimant's name was not performed. This testimony tended to lessen Claimant's credibility but it is problematic for DHS that a computer search was not performed. A computer search would have been more reliable and could have discovered if a submission was logged shortly before or after 5/28/13.

Based on the presented evidence, it is found that Claimant submitted a Redetermination to DHS on 5/28/13. It must be then determined whether it was too late for Claimant to submit a Redetermination.

Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220 (11/2012), p. 4. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. *Id.*

It was not disputed that the DHS written notice of termination was mailed to Claimant on 5/17/13. That would have given Claimant until 5/28/13 to return a Redetermination to DHS. Claimant happened to wait until the latest possible day to return a Redetermination to DHS, but the submission was technically timely enough for DHS to redetermine Claimant's benefit eligibility. Accordingly, the AMP termination was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's AMP benefit eligibility. It is ordered that DHS:

- (1) redetermine Claimant's AMP benefit eligibility, effective 6/2013, subject to the finding that Claimant timely returned a Redetermination to DHS; and
- (2) initiate a supplement of any benefits improperly not issued.

The actions taken by DHS are REVERSED.



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

Date Signed: 8/2/2013

Date Mailed: 8/2/2013

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 affect the substantial rights of the claimant,
 - 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:

