

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

IN THE MATTER OF:



Reg. No.: 2013-43033
Issue No.: 2006, 4003
Case No.: [REDACTED]
Hearing Date: July 18, 2013
County: Wayne DHS (43)

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 18, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Manager.

ISSUE

The issue is whether DHS properly denied Claimant's State Disability Assistance (SDA) and Medical Assistance (MA) eligibility due to a failure to verify 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 1/8/13, Claimant applied for SDA and MA benefits.
2. Claimant's only potential eligibility for SDA and MA was based on disability.
3. On 1/8/13, DHS mailed Claimant a DHS-3503-MRT (Exhibit 1) requesting the completion and return of a: DHS-49, DHS-49F, DHS-49G, DHS-1555 and DHS-3975.
4. On 1/18/13, DHS mailed Claimant a DHS-3503-MRT (Exhibit 2) requesting the completion and return of a DHS-49, DHS-49D and DHS-49E.

5. On 2/15/13, DHS mailed Claimant a DHS-3503-MRT (Exhibit 3) requesting the completion and return of a DHS-49D and DHS-49E.
6. The due date listed on the DHS-3503-MRT mailed 2/15/13 was 2/25/13.
7. Claimant timely returned a DHS-49, DHS-49F, DHS-49G and DHS-1555.
8. On 3/29/13, DHS denied Claimant's SDA and MA eligibility due to an alleged failure to return requested medical documents.
9. On 4/19/13, Claimant requested a hearing to dispute the SDA and MA benefit denials.

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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. DHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a denial of MA and SDA eligibility. It was not disputed that Claimant's potential for both programs required a determination by DHS that Claimant was disabled. It was not disputed that both programs were denied due to Claimant's alleged failure to return documents supporting a claim of disability.

For SDA benefits, DHS is to verify the disability or the need for a caretaker at application, redetermination, when required by the DE, or as needed when the client's circumstances change. BEM 261 (1/2012), p. 5. For MA benefits, the client is responsible for providing evidence needed to prove disability or blindness. BEM 260 (7/2012), p. 4.

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, 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. For SDA benefits, DHS is to send a negative action notice when the client indicates refusal to

provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it.

It was not disputed that DHS mailed Claimant three different checklists requesting various forms. DHS initially contended that Claimant failed to return any of the forms. During the hearing, DHS checked Claimant's case file and discovered that many of the supposedly unreturned documents were indeed returned by Claimant.

Despite conceding that Claimant returned a DHS-1555, DHS-49F and DHS-49G, DHS still contended that Claimant failed to return a DHS-49 (Medical Examination Report) or DHS-1552 (Verification of Application or appeal for SSI/RSDI. The failure to verify pursuit of SSA benefits will first be examined.

Clients must apply for benefits for which they may be eligible. BEM 270 (1/2013), p. 1. This includes taking action to make the entire benefit amount available to the group. *Id.* Any action by the client or other group members to restrict the amount of the benefit made available to the group causes ineligibility. *Id.* For MA and SDA benefits, RSDI benefits are payable to a wage earner and/or his/her dependents. *Id.*, p. 3. For MA and SDA benefits, refusal to pursue a potential benefit results in the person's ineligibility. *Id.*, p. 1. A client's statement at application, redetermination or change that the client has applied for the benefit or that the client is not eligible is to be accepted unless the statement is unclear, inconsistent or in conflict with other information.

It was not disputed that Claimant reported that she applied for SSA benefits. DHS failed to establish why Claimant's statement was questionable. Accordingly, DHS had no need to mandate verification of Claimant's SSA application.

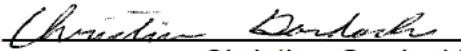
Claimant testified that a free clinic completed a Medical Examination Report (DHS-49) and that she returned it and other medical documents to a previous specialist. Claimant's testimony was not overly persuasive, but it was more persuasive than the DHS side, which initially failed to acknowledge that Claimant returned any documents and which wrongly required proof of Claimant's SSA benefit application. It is found that Claimant timely returned the DHS-49 to DHS. Accordingly, the DHS denial of Claimant's MA and SDA requests was 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 and SDA benefits. It is ordered that DHS:

- (1) re-register Claimant's application for MA and SDA benefits dated 1/8/13; and
- (2) initiate processing of Claimant's applications subject to the findings that Claimant timely returned a DHS-49 and other requested documents and that DHS had no basis to require the return of a DHS-1552.

The actions taken by DHS are REVERSED.


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

Date Signed: 8/9/2013

Date Mailed: 8/9/2013

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:

