

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201313410
Issue No.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: March 13, 2013
County: Kent

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on March 15, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and Claimant's [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department of Human Services (DHS) properly assess Claimant's SDA case at review and Claimant's subsequent MA-P application?

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 6/15/11, Claimant applied MA-P and SDA with the Michigan DHS.
2. On 7/11/11, Claimant was denied MA-P, retro MA-P. MRT approved Claimant's SDA. MRT requested a review in December, 2011. Claimant did not appeal MA-P denial. Exhibit 64.
3. The DHS failed to have Claimant's SDA reviewed and did not scheduled a review.
4. On 9/17/12, DHS processed an MRT form (DHS-49-A) to MRT indicating Claimant had a new application for MA-P and SDA dated 9/12/12. On 11/8/12, MRT Denied.

5. MRT did not apply review standard. DHS did not inform MRT that Claimant's SDA was previously approved by MRT and that Claimant's SDA case was scheduled for review.
6. On 11/15/12, the DHS issued notice of a denied MA-P and SDA application.
7. On 11/20/12, Claimant filed a hearing request.
8. The DHS continued Claimant's SDA benefits.
9. At the administrative hearing, Claimant contested that the "DHS was taking my money away." At that point the error was discovered.
10. On 1/23/13, SHRT denied Claimant on the basis of a new 9/12/12 application for MA-P and SDA.
11. The DHS has not met its burden of showing improvement.

CONCLUSIONS OF LAW

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

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

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 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Federal law and state policies quite specific with regards to issues and considerations at review. Essentially, this is a seven step process. Under Federal law, the burden of proof shifts to the DHS at review to show improvement, and that the improvement is related to an individual's ability to engage work and work like settings.

Claimant is also entitled to have her medical file updated.

As noted in the findings of facts, this case was not scheduled for a review, processed as a review, or sent to MRT on the basis of a review case. Instead, the DHS incorrectly classified the case as new application date of 9/12/12. Claimant has had a continuing SDA case since MRT initially approved Claimant on 7/11/11.

As Claimant could be continued at the first two steps of the review process, even through the last 5 may find her not disabled, the DHS has failed to applied correct standards herein and met its burden of proof. Thus, the ALJ orders DHS to send the case back to MRT to apply the correct review evaluation as required under Federal law pursuant to its initial of SDA approval on 7/7/11. At that time, MRT may make an MA-P new application evaluation once again, or indicate that it is not changing it opinion on its 11/28/12 denial for MA-P as a new application.

Claimant understands that if she receives an unfavorable ruling from MRT. That at that time she may pursue an appeal.

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 did act properly. did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record. As the DHS classified Claimant's SDA as a new application and not a review.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Update Claimant's Medical file, if not already done, as required under DHS policy and procedure.
2. To complete a new DHS-49-A for MRT indicating that Claimant's SDA which was approved by MRT on 7/11/11 is to be reviewed by MRT under the review standard.
3. Request MRT re-review Claimant's MA-P application of 9/12/12.

Claimant understands that if she receives any adverse from MRT, that the notice will explain her hearing rights for an appeal which she must exercise if she has an desire to appeal any adverse ruling. It is so ORDERED.

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

Date Signed: 4/5/13

Date Mailed: 4/8/13

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.

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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:

