

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201324550
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: May 15, 2013
County: Gratiot

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 May 15, 2013. Participants on behalf of Claimant included [REDACTED] and [REDACTED], representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Lead Worker.

ISSUE

Did the Department of Human Services (DHS) properly deny Claimant's Medical Assistance (MA) case 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. Claimant was previously approved MA-P by MRT. Claimant's case was scheduled for review in August, 2012 - the issued herein.
2. There is no retro MA issue.
3. On 1/10/13, the MRT denied.
4. On 1/16/13, the DHS issued notice.
5. On 1/23/13, Claimant filed a timely hearing request. The DHS was required to reinstate Claimants case due to a timely hearing request. The DHS failed to do so. Claimant has been prejudiced by this failure on the grounds that she was unable to attend medical appointments which Claimant argues, would show no improvement.

6. On 3/19/13, the State Hearing Review Team (SHRT) denied Claimant.

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).

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.

Relevant federal guidelines provide in pertinent part:

"Disability" is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905.

The federal regulations require that several considerations be analyzed in sequential order:

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

At review, very specific issues and considerations are applied that are different than a case which is treated as an application. At review, the burden of proof is on the DHS to show improvement and that the improvement is related to individual's ability to engage in SGA.

In this case, Claimant argued at the administrative hearing that she has not sufficiently improved. Claimant further argued that she was unable to attend certain medical

appointments and to obtain the proper medical documentation to support her position as the DHS erred in closing her case.

The Administrative Law Judge (ALJ) has thoroughly considered Claimant's position. The ALJ finds it persuasive, particular in light of the fact that the burden of proof is actually on the DHS at review. As Claimant was prejudiced by the DHS's error, as this is a review case putting the burden of proof on the DHS, this ALJ will reverse the DHS setting a 6 month review date.

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.

Accordingly, the DHS is ordered to:

1. Immediately reinstate Claimant's case from the date of closure, as required under DHS policy and procedure, if not already done so.
2. Schedule this case for a review in 6 months from the date of this Decision and Order.
3. Give Claimant the opportunity to hand in any and all medical documentation at the next 6 month review which she feels is favorable in her case.
4. Collect all updated medical documentation on behalf of Claimant.

It is so ORDERED.

/s/ _____
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;
 - 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:

