

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201355258
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: July 31, 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, an in-person hearing was held on July 31, 2013, from Detroit, Michigan. Participants included the above-named claimant. [REDACTED], Claimant's mother, testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of Department of Human Services (DHS) included [REDACTED], Supervisor, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's Medical Assistance (MA) and State Disability Assistance (SDA) application due to a failure to attend medical appointments.

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 April 5, 2011, Claimant applied for MA and SDA benefits.
2. On unspecified dates, DHS received medical documentation from Claimant and forwarded the documents to the Medical Review Team (MRT).
3. On July 8, 2012, the MRT returned Claimant's medical packet to DHS to request physical and psychological consultative examinations for Claimant (see Exhibit 1).
4. On an unspecified date, DHS scheduled Claimant for psychological and physical examinations.

5. Claimant failed to attend the examinations.
6. On August 30, 2012, DHS mailed Claimant a Notice of Case Action informing Claimant of a denial of MA and SDA benefits for the period of November 1, 2011 - ongoing.
7. On September 13, 2012, Claimant requested a hearing to dispute the benefit denials.
8. On December 17, 2012, an administrative hearing was held.
9. On January 30, 2013, DHS mailed Claimant a Quick Note informing Claimant that her application from April 5, 2011 was denied.
10. On February 11, 2013, an administrative law judge affirmed the DHS denial of Claimant's application dated November 1, 2011 due to Claimant refusing to attend medical appointments scheduled by DHS.
11. On February 20, 2013, the Michigan Administrative Hearings System (MAHS) received a request for reconsideration/rehearing from Claimant.
12. On July 2, 2013, MAHS vacated the hearing decision dated February 11, 2013 and ordered that Claimant be given an in-person hearing.

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).

Claimant requested a hearing to dispute a MA application denial. It was not disputed that the denial was based on Claimant's failure to attend medical appointments scheduled by DHS during the disability evaluation process.

A client who refuses or fails to submit to an exam necessary to determine disability or blindness cannot be determined disabled or blind and DHS should deny the application or close the case. BEM 260 (7/2012), p. 3. It is not necessary to return the medical evidence to the MRT for another decision in this instance. *Id.*

The above policy is noted in DHS policy for MA benefits. It is presumed that the policy equally applies to SDA applications which also require disability evaluations.

Claimant's primary hearing contention was that MRT determined Claimant to be disabled. Thus, it was not necessary for DHS to schedule her for medical appointments.

When Claimant was asked for supporting evidence of her contention, Claimant cited approval codes on the Medical-Social Eligibility Certification form (DHS 49-A). The codes cited by Claimant appear on every DHS 49-A. The codes are only relevant when the MRT circles a code. In the present case, the MRT sent the DHS 49-A back to Claimant's specialist checking the "decision deferred" section. It was noted that psychiatric and internal medicine consultative examinations were needed. It was further noted that DHS was to clarify whether Claimant was seeing a therapist and, if so, to obtain two months of treatment records.

Based on the presented evidence, it was established that Claimant was not found to be disabled and that the MRT required DHS to schedule consultative examinations for Claimant.

Claimant also expressed confusion as to why the MRT would have needed more documentation after Claimant provided what she considered to be sufficient medical documentation. MRT discretion in requesting consultative examinations is not addressed in DHS policy. It is generally accepted that the MRT has wide discretion in determining when to schedule clients for consultative examinations. Barring a clear abuse of discretion, a MRT decision requesting consultative examination reports will not be overturned. Claimant failed to establish an abuse of discretion by the MRT.

Claimant was perplexed by a previous administrative decision which affirmed the DHS denial of Claimant's MA application dated November 1, 2011. It was not disputed that DHS mailed Claimant a Notice of Case Action denying Claimant MA benefits beginning with the period of November 1, 2011. DHS presented testimony clarifying that the DHS computer system is incapable of sending written notices for applications more than one year from the date of denial. The DHS testimony did not clarify why the computer system selected a date ten months old, but the confusion created by the denial is not deemed to be particularly relevant. DHS sent Claimant a Quick Note on January 30, 2013 informing Claimant of a denial for the application dated April 5, 2011. Though a Notice of Case Action followed by a Quick Note (4 months later) is not the ideal method to inform clients of application denials, Claimant failed to cite any loss of due process because of the notice. Thus, Claimant is not entitled to a remedy for the methods used by DHS in informing Claimant of the application denial.

DHS took 16 months to process a MA/SDA application. Claimant's mother was understandably troubled by the lengthy time that DHS took in processing Claimant's application. DHS presented testimony that the delay was caused by a glut of applications claiming disability during and after the time Claimant's application was submitted. Claimant's mother properly noted the standard of promptness for processing applications based on disability is 90 days. Claimant's mother also implied that the delay caused her daughter to suffer an aneurysm. Had Claimant sought a hearing during the disability evaluation process, a remedy ordering DHS to process Claimant's application would have been possible. Once DHS processes the application, there is no remedy for a DHS failure to comply with the standard of promptness.


Claimant and her mother spent only a few seconds of the hearing disputing the only relevant issue, why her daughter failed to attend consultative examinations scheduled by DHS. It was not disputed that the failure to attend the appointments was a lack of transportation. It was not disputed that DHS offered bus tickets to Claimant, and that Claimant refused the DHS offer.

The client is responsible for providing evidence needed to prove disability or blindness. *Id.*, p. 4. However, DHS must assist the customer when they need help to obtain it. *Id.* Such help includes scheduling medical exam appointments and paying for medical evidence and medical transportation.

The critical issue for this case is whether the DHS offer of bus tickets was a reasonable offer of transportation for Claimant. Claimant did not offer any evidence to justify why the offer of bus tickets was unreasonable. Claimant's mother contended that the offer of bus tickets was not reasonable because of Claimant's ailments and restrictions. No documentary evidence was provided to verify the contention. Claimant's request for reconsideration and testimony strongly suggested a different reason for the denial. Claimant refused the bus tickets because she stubbornly insisted that the MRT found her to be disabled. In Claimant's mind, the appointments were an unnecessary obstacle manufactured by her assigned case workers. As noted above, Claimant was wrong. Based on the presented evidence, DHS properly denied Claimant's MA benefit application due to Claimant's refusal to attend medical appointments.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's MA application dated April 5, 2011. The actions taken by DHS are **AFFIRMED**.


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

Date Signed: August 22, 2013

Date Mailed: August 23, 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 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

CAP/aca

cc:

