

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-000934
Issue No.: MEDICAID - ELIGIBILITY
Case No.: [REDACTED]
Hearing Date: May 28, 2014
County: MACOMB 20 (WARREN)

ADMINISTRATIVE LAW JUDGE:

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on May 28, 2014, from Warren, Michigan. [REDACTED] testified and appeared as Claimant's authorized hearing representative. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Hearings Facilitator.

ISSUE

The issue is whether DHS properly denied Claimant's Medical Assistance (MA) application due to Claimant's failure to pursue Social Security Administration (SSA) benefits.

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 [REDACTED], Claimant applied for MA benefits based on a claim of disability.
2. On [REDACTED], DHS mailed Claimant a Medical Determination Verification Checklist requesting various medical forms and proof that Claimant applied for SSA benefits.
3. Following Claimant AHR requests, DHS extended Claimant's due date to [REDACTED].
4. Claimant failed to verify the SSA application by the DHS deadline.
5. On [REDACTED], DHS denied Claimant's MA application due to Claimant's failure to verify pursuit of SSA benefits.

6. On [REDACTED], Claimant's AHR requested a hearing to dispute the denial of MA benefits.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant's AHR requested a hearing to dispute a denial of Claimant's MA application. It was not disputed that DHS denied Claimant's application due to Claimant's failure to return verification of a SSA application.

Individuals must apply for benefits for which they may be eligible. BEM 270 (10/2013), p. 1. This includes taking action to make the entire benefit amount available to the group. *Id.* For MA benefits, a refusal to pursue a potential benefit results in the person's ineligibility. *Id.* Among potential benefits, RSDI is listed as a potential MA benefit (see *Id.*, p. 2). SSI is not listed as a potential MA benefit (see *Id.*, p. 3).

The above policy is supportive in finding that DHS may require that clients pursue RSDI benefits as a condition of applying for MA benefits based on a claim of disability. Other DHS policy is less supportive.

DHS outlines a 26-step procedure for how to process MA applications based on a claim of disability (see BAM 815). None of the 26 steps reference BEM 270 or a client requirement to pursue RSDI benefits. This policy tends to support that DHS improperly required Claimant to pursue RSDI benefits before evaluating Claimant's allegation of disability.

It is also worth noting that DHS requested proof of Claimant's pursuit of SSA benefits via a Medical Determination Verification Checklist (Exhibits 1-2). The default version of this form lists various medical forms, many of which are mandated in every MA application based on a claimed disability. Mandatory forms listed on the Medical Determination VCL include the following: Authorization to Release Protected Health Information, Medical Social Questionnaire, and a Medical Examination Report. If proof of SSA benefit pursuit was required for every MA application, it would likely be among the forms listed on the checklist; pursuit of SSA benefits is not among the listed forms on the checklist. This is evidence supporting a finding that DHS improperly required Claimant to return proof of pursuit of SSA benefits.

A general rule of policy interpretation is to interpret inconsistencies against the party that created the inconsistency. Applying such an interpretation results in finding that DHS improperly required Claimant to provide proof of pursuit of SSA benefits.

Another general rule of policy interpretation is to interpret apparent inconsistencies so that there is not an inconsistency. The seemingly inconsistent DHS policies could be interpreted so that DHS may require a client to pursue RSDI benefits, but only if disability is established. The 26 steps outlined by DHS only describe the steps in processing the application. It is reasonable to presume that pursuit of benefit policy is only applicable once disability is established, not during the application process.

Whether it is found that the DHS request for verification of Claimant's SSA application was improper or premature does not matter. In both cases, the result is that DHS improperly denied Claimant's MA application.

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 benefits. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's MA application dated [REDACTED]; and
- (2) initiate processing of Claimant's application subject to the finding that DHS policy does not require pursuit of SSA benefits prior to a disability determination.

The actions taken by DHS are **REVERSED**.



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

Date Signed: **6/16/2014**

Date Mailed: **6/16/2014**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

cc:



