

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-012506
Issue No.: 2007
Case No.: [REDACTED]
Hearing Date: January 15, 2015
County: GENESEE-DISTRICT 6

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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, a telephone hearing was held on January 15, 2015, from Lansing, Michigan. Participants on behalf of Claimant included her authorized hearing representative, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included DHS Case [REDACTED].

ISSUE

Did the Department properly deny Claimant's April 10, 2014 Medical Assistance 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 April 10, 2014, [REDACTED] submitted a Medical Assistance application for Claimant.
2. On June 12, 2014, the Medical Review Team deferred their decision in order to get additional medical evidence.
3. On June 18, 2014, Claimant was sent a Medical Appointment Confirmation Notice (DHS-800) which stated she had a medical examination scheduled for June 24, 2014.
4. On June 24, 2014, Claimant did not attend the scheduled medical examination.
5. On June 27, 2014, [REDACTED] spoke to the Doctor's office where the exam was scheduled and was told Claimant did not show up for the appointment.

6. On June 27, 2014, Claimant and [REDACTED] were sent a Health Care Coverage Determination Notice (DHS-1606) which stated that Claimant was not eligible from August 1, 2014 ongoing.
7. On June 27, 2014, Claimant called [REDACTED] and they spoke about the missed appointment.
8. On September 4, 2014, [REDACTED] submitted a hearing request.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Bridges Eligibility Manual (BEM) 260 MA Disability/Blindness (2014) at page 4 & 5 States:

Client Cooperation

The client is responsible for providing evidence needed to prove disability or blindness. However, assist the customer when they request or need help to obtain it. Such help includes the following:

- Scheduling medical exam appointments
- Paying for medical evidence and medical transportation

See BAM 815 and BAM 825 for details.

A client who refuses or fails to submit to an exam necessary to determine disability or blindness **cannot** be determined disabled or blind and you should deny the application or close the case. It is not necessary to return the medical evidence to MRT for another decision in this instance.

The Medical Appointment Confirmation Notice (DHS-800) states "If for any reason you cannot keep this appointment, call the doctor in advance to reschedule."

During this hearing Ms. Wright testified that on June 27, 2014: the Doctor's office reported Claimant was a "no show" for the appointment; and Claimant stated she had called the Doctor's office on June 26, 2014 to reschedule the appointment.

During this hearing Claimant testified that she was out of town and did not attend the June 24, 2014 medical examination. Claimant testified that she called the Doctor's office on June 23, 2014 to reschedule the appointment.

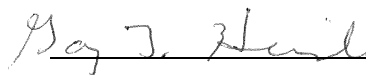
The pivotal question which decides this case is whether Claimant called to reschedule the appointment BEFORE she failed to go to the medical examination. The only competent evidence in the record on that question is Claimant's testimony. However, there is also competent evidence in the record from Ms. Wright on the question of what she heard the Doctor's office say on June 27, 2014 and what she heard Claimant say on June 27, 2014. Ms. Wright's testimony impugns the veracity of Claimant's testimony.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

Based on the totality of evidence in this record, Claimant's testimony that she contacted the Doctor's office BEFORE she failed to go to the medical examination is not found credible. The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Claimant's April 10, 2014 Medical Assistance application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/12/2015**

Date Mailed: **2/12/2015**

GFH/hj

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 48909-8139

CC:

