

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201413325
Issue No(s): 2007
Case No.: [REDACTED]
Hearing Date: January 30, 2014
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED] and AHR [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Stephanie Avery, APW.

ISSUE

Did the Department properly deny claimant's Medicaid 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. Claimant applied for MA on [REDACTED].
2. On [REDACTED], the application was returned from the Medical Review Team with instructions to schedule a psychiatric evaluation for the claimant.
3. On [REDACTED], claimant was scheduled for a psychiatric evaluation to be held on [REDACTED] at 11a.m.
4. Claimant received this notice.
5. Claimant did not attend this examination.

6. On [REDACTED], claimant's authorized representative contacted DHS and informed them that claimant's cab had failed to pick her up as scheduled, and as a result she missed the appointment. A request was made at this time to reschedule the appointment.
7. On [REDACTED], claimant's examination was rescheduled for [REDACTED] at 3 p.m.
8. Claimant received this notice.
9. Claimant did not attend this examination.
10. On [REDACTED], claimant's authorized representative contacted DHS and informed them that the claimant's cab had failed to pick her up as scheduled, and as a result she missed the appointment. A request was made at this time to reschedule the appointment.
11. Several other contacts were made by claimant's authorized representative, asking to reschedule the appointment.
12. The appointment was never rescheduled.
13. On [REDACTED], claimant's application for MA was denied for failing to attend the scheduled medical appointments and not meeting disability requirements.
14. On [REDACTED], claimant requested a hearing.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

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.

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

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

A client who refuses or fails to submit to an exam necessary to determine disability or blindness cannot be determined disabled or blind and the application must be denied. BEM 260, pg. 5.

Policy states that the application must be denied if a client fails or refuses to attend a necessary exam. In the current case, there is no dispute as to whether the exam in question was necessary, and as such, that issue will not be examined.

However, there is a dispute as to whether the claimant was at fault for not attending; claimant's position is that she was not at fault for mix-up, and thus could not be said to have failed or refused to attend the exam. Claimant argues that the cab responsible for

picking her up both times is at fault, and thus, prevented her from attending the exam in question.

While it may be true that claimant herself did not fail or refuse to attend the exam, the fact remains that there is no evidence of claimant's transportation troubles.

At no point has claimant or the authorized representative submitted to the Department proof that claimant's failure to attend the appointment was due to a mix-up by the cab company designated to transport her to the appointments.

Furthermore, claimant has failed to submit evidence to the Department of due diligence in hiring the cab, such as evidence that the cab was given the correct address for pick-up, that the cab was informed of a reasonable time to pick claimant up, or that the cab was ever even called.

No such evidence was even submitted at the hearing, though claimant has had ample time to secure such evidence.

As such, the undersigned must hold that, without evidence, the Department was correct to refuse to reschedule the appointments in question and deny the application. The Department had no assurances that claimant had been the victim of a misunderstanding; claimant is just as likely as to have refused to attend the appointments in question.

The Administrative Law Judge must judge the actions of the Department through a prism that acknowledges what the Department knew at the time of the denied application, and whether those actions were correct given the knowledge at hand.

When the application was denied, the Department only had a statement that there had been a mix-up with a cab. No other evidence was provided, though time was given to provide that evidence. As such, with no other information to go on at the time of the action in question, the Department had no choice but to deny the application in question, as required by policy, and must be upheld.

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

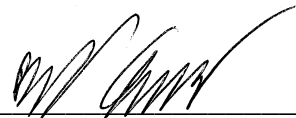
- acted in accordance with Department policy when it denied claimant's [REDACTED] Medicaid application.
- did not act in accordance with Department policy when it .
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it .

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
 REVERSED.
 AFFIRMED IN PART with respect to _____ and REVERSED IN PART with respect to _____.

- THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 2/21/2014

Date Mailed: 2/21/2014

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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:

2014-13325/RJC

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

RJC/hw

cc:

