

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2014 3293
Issue No.: 2002, 4002
Case No.: ██████████
Hearing Date: December 12, 2013
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 December 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Assistance Payments Worker.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|--|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Program (AMP)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input checked="" type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for received:
 FIP FAP MA AMP SDA CDC
benefits.
2. Claimant was required to submit requested verification by September 30, 2013.

3. The Claimant was required to complete a medical determination packet to be submitted to the Medical Review Team. The Department received several of the forms required to be submitted by the Claimant and the Claimant did submit a prior consultative examination obtained on his behalf by the Department on February 21, 2013 as medical evidence.
4. The Department gave the Claimant until October 15, 2013 to provide a new DHS 49 because it determined that the medical evidence was too old.
5. The Claimant returned the DHS 49F and 49G and a DHS 3975 and a DHS 1555.
6. The Department did not submit the medical packet to the MRT because the DHS 49 was too old. The Department did not enclose a DHS 49 with the extension and thus Claimant did not receive a new DHS 49 form with the extension.
7. The Claimant advised the Department on October 7, 2013, that the original medical determination packet was received late and thus could not be completed in time. The Claimant also requested assistance as he had no primary care physician or funds to provide a completed DHS 49 as requested by the Department.
8. The Claimant brought to the hearing a new DHS 49.
9. On October 16, 2013, the Department
 - denied Claimant's application.
 - closed Claimant's case.
 - reduced Claimant's benefits.
4. On October 16, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.
5. On October 4, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's action.

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), and Department of Human Services Reference Tables Manual (RFT).

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 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.

Additionally, at the hearing it was determined that the Claimant had received the original medical packet late and completed the information including all the forms and submitted an old DHS 49 because he could not obtain a new one. The Department testified that the application was denied because he did not return a DHS 49 which was current. The Department testified that the application could not be sent to the Medical Review Team without the DHS 49 and denied the application. The Department did not forward the application package to the MRT because the medical documentation was more than 60 days old. The Department did not assist the Claimant in obtaining a medical examination. The Department also indicated that medical evidence older than 60 days cannot be submitted to the MRT; however, the Department cited no rule or other basis for the 60 day requirement.

The Department denied the application for failure of the Claimant to submit the DHS 49 although the Notice of Case Action indicated a failure to verify information.

A review of policy found in BAM 815 raises the question regarding whether a failure to return a DHS 49 allows the Department to deny an application solely on that basis. In accordance with Department policy, BAM 815, the Department had no such right to deny the MA-P and SDA application for failure to return a DHS 49 and other medical records. A DHS 49 is a type of medical evidence, and per policy found in BAM 815, a DHS 49 is not a verification as commonly understood under BAM 130. BAM 815 does not allow the Department to deny an application for failing to return medical evidence; the Claimant per policy is only required to return a DHS 1555 and a DHS 49F. If there is a lack of medical evidence, the case is to be denied by MRT for lack of medical evidence. The Department is not allowed to place the burden solely on the Claimant. Lastly, per BAM 815, the determination that there is insufficient evidence to make an eligibility determination with regards to medical disability lies solely with the MRT.

Step 18 of the medical evidence process found in BAM 815 instructs MRT to make a medical eligibility determination, not the local office. The local office superseded the duties of the MRT to make their own eligibility determination by determining there was not enough medical evidence – such as the DHS 49. This is expressly contrary to the law and policy and the Department was incorrect to make this finding. If there is not enough medical evidence, MRT is to make the finding of no disability. The local office may not make a disability finding as they did in the current case.

The Department also erred when it required the Claimant to provide the DHS 49 by himself, as the Department is clearly instructed to assist the Claimant in securing the needed medical evidence. Claimant requested assistance and advised that he had no provider or money to obtain a completed DHS 49 prior to the second extension due

date. See Step12 of BAM 815. If there is a lack of medical evidence such as a DHS 49 the case is to be denied by MRT for lack of evidence. The Department cannot place the requirement for gathering medical evidence solely on the Claimant. Per BAM 815 the determination that there is insufficient evidence to make an eligibility determination with regards to medical disability lies solely in the hands of MRT.

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

did not act in accordance with Department policy when it denied the Claimant's application solely on the basis that a DHS 49 was not returned.


DECISION AND ORDER

Accordingly, the Department's decision is

REVERSED.

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:

1. The Department shall initiate re registration of the Claimant's September 19, 2013 application for MA-P and SDA and process the application accordingly and assist the Claimant, if necessary, in obtaining the necessary medical evidence as required by Department policy.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 3, 2014

Date Mailed: January 3, 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:

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

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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