

STATE OF MICHIGAN

STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 200820262
Issue No: 2000/2006
Case No: [REDACTED]
Hearing Date: April 7, 2009
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a three-way telephone conference hearing was held. Claimant was represented at the administrative hearing by [REDACTED] gan.

ISSUE

1. Did the Department of Human Services (DHS) properly deny claimant's January 29, 2008 Medicaid (MA) application on the grounds that claimant was deceased?
2. Whether [REDACTED] was authorized to request a hearing on behalf of decedent claimant?
3. Did the Department of Human Services (DHS) properly deny claimant's Medicaid (MA) application on the grounds that the representative failed to return requested verifications?

FINDINGS OF FACT

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

1. [REDACTED] is attempting to collect a hospital bill where claimant was hospitalized prior to his death.
2. On October 9, 2007 claimant died.

3. On January 29, 2008, [REDACTED] submitted an application for a deceased client requesting MA coverage and three months of retro MA. The MA application was signed by claimant's father.
4. On January 31, 2008, the DHS denied claimant's application for the following reason: "After death a person is not a legal entity, no one can represent the person."
5. On March 25, 2008, [REDACTED] was granted a Letter of Authority to act as Personal Representative by the State of Michigan Probate Court for the [REDACTED] on behalf of decedent claimant.
6. On April 14, 2008, [REDACTED] filed a hearing request.
7. On April 16, 2008, the DHS issued a DHS-3503 (Verification Checklist) with a due date of April 26, 2008 requesting certain verifications.
8. On April 25, 2008, [REDACTED] requested an extension to May 6, 2008. The DHS granted the extension.
9. On May 6, 2008, [REDACTED] faxed a request stating:

The purpose of this facsimile is to request a checklist extension for the above client. In an effort to save you the time of a return phone call, I would like to suggest that we use May 16, 2008 as the new date. If this date does not work for you, please call me. If you are unable to grant an extension despite our efforts to obtain the needed verifications, I am requesting that you assist us or use the best available information to make a determination.

10. On May 8, 2008, the DHS denied claimant's MA application for failing to return the requested verifications.

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). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

As noted in the Findings of Fact, the department actually issued two denial notices in this case. The first one was on January 31, 2008 on the grounds that claimant was deceased and the department's position was that no one could represent the person.

The second one was for lack of verification. These two denials are discussed in Issue 1 and Issue 3.

ISSUE ONE

In this case, the first issue deals with who can apply for MA on behalf of a deceased claimant. Under PAM Item 110, p 8 and p 9, an authorized representative can be a specified relative. See PEM Item 135. PEM Item 135 identifies parents as specified relatives.

In this case the decedent's parent filed the application on behalf of claimant. Under the specified relative policy, the parent is one of the specified relatives. Under this authority, the department's denial of January 31, 2008 was incorrect and thus, reversed.

ISSUE TWO

The second issue deals with whether [REDACTED] was authorized to request a hearing on behalf of the deceased claimant. Applicable policy to this issue is found in PAM Item 600 wherein it states:

Request signed by AHR:

All Programs:

The appointment of an AHR must be made in writing. An AHR must be authorized or have made an application through probate court before signing a hearing request for the client.

PAM Item 600, p 2.

In the instant case, [REDACTED] was authorized by the [REDACTED] Probate Court on March 25, 2008. The hearing request was filed on April 14, 2008. Under the above cited authority, [REDACTED] had authorization to proceed as an AHR.

It is noted that the department subsequently decided to process the MA application. This Administrative Law Judge rules that jurisdiction was proper and claimant's hearing request is timely.

ISSUE THREE

The third issue deals with the May 8, 2008 denial notice for failure to submit verifications. General verification policy and procedure states in part:

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- . Determine eligibility.
- . Calculate the level of benefits.
- . Protect client rights. PAM, Item 105, p. 1.
- .

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, Item 105, p. 5.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. PAM, Item 105, p. 5.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. PAM, Item 105, p. 7.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. PAM, Item 105, p. 9.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see "**Timeliness Standards**" in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. PAM, Item 130, p. 2.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it. PAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
the time period given has elapsed. PAM, Item 130, p. 4

With regards to the very specific facts herein, policy in effect at the time this application was processed was very specific as to extending requests for verifications:

MA Only

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit no more than once...

PAM Item 130, p 4.

In this case, claimant requested a second extension. The policy the department followed indicates that the extended time limit was to be "no more than once." Thus, the next extension request would not have to be granted under this policy and thus, the department's actions were consistent with policy and procedure in effect at the time under PAM Item 130, p 4. It is noted that the department subsequently changed its policy with regards to extensions. However, Administrative Law Judges do not have authority to overrule policy:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals. Department of Human Services Delegation of Hearing Authority.

Furthermore, for these reasons, and for the reasons stated above, the department's denial in this case is hereby upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law:

ISSUE ONE: The department incorrectly denied claimant's January 29, 2008 MA application on the grounds claimant's father filed the MA application. On this issue, the department is partially REVERSED.

ISSUE TWO: Attorney Sneden was authorized by the Probate Court for [REDACTED] to represent the decedent and thus, [REDACTED] was authorized to request a hearing.

ISSUE THREE: The May 8, 2008 DHS-1150 denying claimant's January 29, 2008 application for failure to verify was correct under DHS policy and procedure and thus, on this issue, the department is partially AFFIRMED.

/s/

Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 15, 2011

Date Mailed: March 15, 2011

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

JGS/db

cc:

