STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: ██████████,

        Claimant

Reg. No: 2008-22036
Issue No: 2006
Case No: ████████
Load No: ████████
Hearing Date:
April 8, 2009
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

AMENDED 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 telephone hearing was held on April 8, 2009. ██████████ Inc. appeared and testified on claimant's behalf.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA) based upon its determination that claimant failed to provide verification information in a timely manner?

FINDINGS OF FACT

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

(1)   On November 28, 2007, ██████████ applied for Medical Assistance benefits on behalf of claimant. There was also a retroactive Medical Assistance application filed on that date.

(2) A DHS-3503 was sent out to ██████████ and claimant on December 5, 2007 with a due date of December 17, 2007.

(3) On December 17, 2007, December 27, 2007, January 4, 2008, January 16, 2008, January 22, 2008, February 22, 2008, February 25, 2008, ██████████ requested extensions to provide verification information.

(4) On January 14, 2008, the department caseworker sent claimant notice that his application was denied based upon the fact that he did not provide verification information in a timely manner.

(5) On May 16, 2008, ██████████ filed a request for a hearing to contest the department's negative action.

(6) ██████████ allegation is that there was no proper notice because the Application Eligibility Notice was sent only to ███████████████████████████████████, ██████████████████ and not sent also to ██████████

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).

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.

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Client Cooperation

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

. Scheduling medical exam appointments
. Paying for medical evidence and medical transportation
. See PAM 815 and 825 for details. PEM, Item 260, p. 4.

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.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

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.

VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY

All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

. required by policy. PEM items specify which factors and under what circumstances verification is required.

. required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.

. information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. PAM, Item 130, p. 1.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

Verification is **not** required:

. when the client is clearly ineligible, or
. for excluded income and assets **unless** needed to establish the exclusion. PAM, Item 130, p. 1.

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.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

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 at least once. PAM, Item 130, p. 4.

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.

Only **adequate** notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits.

Exception: At redetermination, **FAP** clients have until the last day of the redetermination month **or** 10 days, whichever is later, to provide verification. See PAM 210. PAM, Item 130, p. 4.

TMAP

See PEM 647 regarding timeliness standards for TMA-Plus determinations. PAM, Item 130, p. 5.

AUTHORIZED REPRESENTATIVES

All Programs

An **Authorized Representative** (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (e.g., to obtain FAP benefits for the group.) An AR is not the same as an Authorized Hearing Representative (AHR) PAM, Item 110, p. 6.

The AR assumes all the responsibilities of a client. See PAM 105. PEM, Item 110, p. 7.

The AR must give his name, address, and title or relationship to the client. To establish the client's eligibility, he must be familiar enough with the circumstances to complete the application, answer interview questions, and collect needed verifications. PAM, Item 110, p. 7.

In this case, ▮▮▮▮▮▮▮ was the authorized representative from application date forward. There was no notice sent to ▮▮▮▮▮▮▮ in this case and therefore ▮▮▮▮▮▮▮ did not have notice that the case was denied. In addition, no one from the department who had actually worked on the case was present to testify at the hearing as to what happened. It does appear based upon the exhibits contained in the file that ▮▮▮▮▮▮▮ did attempt at all times to procure all verification information for this case, even though it did take some months. The fact that ▮▮▮▮▮▮▮ was not sent notice in this case was improper on behalf of the department. Therefore, this Administrative Law Judge finds that the department has not established that it was acting in compliance with department policy when it denied claimant's application for retroactive Medical Assistance based upon its determination that claimant did not provide verification information.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not established that it was acting in compliance with department policy when it denied claimant's retroactive Medical Assistance application based upon its determination that claimant failed to provide verification information. Proper notice was not provided to ███████████ about the closure of the case and therefore the hearing request was timely.

Accordingly, the department's decision is REVERSED. The department is ORDERED to reinstate claimant's November 27, 2008 Medical Assistance application and retroactive Medical Assistance application for the months of September and October 2007 and make an assessment of claimant's eligibility or lack thereof for Medical Assistance benefits for those months. Claimant is to receive from the date of this decision 20 days to provide information. There should be no further extensions granted. The department shall notify the claimant and ████ ████████ of the eligibility or lack thereof in writing.

                                              /s/

Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: __April 21, 2010_____ __

Date Mailed: __ April 22, 2010_____ ___

2008-22036/LYL

<u>NOTICE:</u> 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.

LYL/vmc

cc: M. Goodloe
       N. Anderson, ▮▮▮▮▮▮▮ Inc.
       Jackson County DHS / DHS-1843
       I. Brown
       M. Best
       J. Rogers
       L. Y. Lain
       Administrative Hearings (2)