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:  2008-25511
Issue No:  2011
Case No:  ▮▮▮▮▮
Load No:  ▮▮▮▮▮
Hearing Date:
May 12, 2009
Van Buren County DHS

ADMINISTRATIVE LAW JUDGE:  Marlene B. Magyar

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 May 12, 2009. Claimant did not appear; however, she was represented by ▮▮▮▮ ▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮.

ISSUE

Did the department err in processing claimant's January 31, 2008 Medicaid (MA) application?

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 January 31, 2008, L███████████████████ filed the first page and the signature page of claimant's MA application at the local █████████████████ office to protect that registration filing date (Department Exhibit #1, pgs 2 and 3).

(2)     After entering "January 31, 2008" as the registration filing date, the local office sent claimant's purportedly authorized representative █████ an Incomplete Application Notice (DHS-723) because █████ failed to provide proof of their authorized status with that January 31, 2008 mailing (See Finding of Fact #1 above).

(3)     The department mailed this notice on February 1, 2008 and advised █████ that a written statement signed by claimant authorizing them to represent her was needed before her (currently registered) application could be deemed complete and processed to finalization (approval/denial)(Department Exhibit #1, pg 5).

(4)     Additionally, the department mailed a second notice to █████ that same day (Pending Application Notice DHS-330) advising them that the missing, signed verification authorized representative form necessary to change claimant's application status from "incomplete" to "complete" was due no later than February 12, 2008 (Department Exhibit #1, pg 6).

(5)     This form specifically states:

> The application must be completed before 02/12/2008, or your application for assistance may be denied (Department Exhibit #1, pg 6).

(6)     Claimant did not sign the required authorization form until the stated deadline (2/12/08), as verified when █████ provided her original handwritten and dated signature with

their hearing request, received by the State Office of Administrative Hearings and Rules

(SOAHR) on July 18, 2008.

(7)     Inexplicably, one day after the stated verification deadline expired, specifically,

on February 13, 2007, ███ faxed the local office a completely different and inconsistent

photocopy of an authorization form purportedly signed by claimant on February 7, 2008

(Department Exhibit #1, pg 7).

(8)     Even though this verification was not submitted on time, the local office decided

to accept it and process the diputed application.

(9)     The local office then removed claimant's original registration date (1/31/08) and

replaced it with "February 13, 2008" because that is the date the local office received the

verification they asked for.

(10)     The local office then approved MA retroactive to November, 2008, but not

earlier.

(11)     This is consistent with PAM Item 115, pg 8, which states that retro-MA coverage

is only available back to the first day of the third calendar month prior to the MA application

[registration/filing] month.

(12)     However, ███ filed a hearing request to protest the department's refusal to

approve coverage back to October, 2007, because they contend their January 31, 2008 filing date

should have been used, thus permitting retroactive approval to October, 2007.

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).

The department's policy at PAM Item 115, pages 3 and 4 set forth the procedural rules

which must be followed when these circumstances occur. This policy states:

> **ALL PROGRAMS**
>
> When an incomplete application becomes complete, explain the
> situation in the notes section of the application form or on the
> remarks screen on ASSIST.
>
> When the applicant or the representative completes an earlier
> incomplete application, the application must be re-signed and
> re-dated on the signature page.
>
> ASSIST retains the original registration date, regardless of how or
> when the application is completed.

In this case, the local office did not follow any of the above-referenced policy. Instead,

they completely deleted the original registration date and replaced it with February 13, 2008.

This constitutes a procedural error which simply cannot be upheld.

<u>DECISION AND ORDER</u>

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

of law, decides the department erred in processing claimant's January 13, 2008 MA application.

Accordingly, the department's action is REVERSED, and this case is remanded to the

local office for application registration/reinstatement to January 31, 2008, followed by a

determination of whether claimant met all of the other eligibility requirements to qualify for MA

in October, 2007, with written notice sent to claimant and ███ of the approval or denial.

**SO ORDERED**.


/s/_____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed:  May 14,2009

Date Mailed:  May 14, 2009

**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 receipt 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.

MBM/db

cc: