

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2008-17358

Issue No: 2012

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 2, 2008

Oakland 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 December 2, 2008. Claimant did not appear; however, he was represented by Heather Sneden, a patient advocate from [REDACTED]

ISSUE

Did the department err in processing claimant's December 27, 2007 Medicaid (MA)/retro-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 December 27, 2007, claimant's authorized representative ([REDACTED]) faxed an MA/retro-MA application to the department on claimant's behalf (Client Exhibit B, pgs 1-6).

(2) This application does not contain claimant's (the applicant's) signature, nor was any signed document authorizing [REDACTED] to act on claimant's behalf provided at that time (Client Exhibit B, pgs 1-6).

(3) Specifically, [REDACTED] cover letter notes: "Verbal Authorization" (Client Exhibit B, pg 3).

(4) The local office received and registered this incomplete application on December 28, 2007 because it contained the minimum information required for registration filing set forth in PAM Item 105, pg 1 (Department Exhibit #2).

(5) On February 19, 2008, claimant signed a document authorizing [REDACTED] to act on his behalf (Client Exhibit A, pg 1).

(6) The department did not receive this document until after the disputed application was withdrawn from the department's computer system by the local office on January 31, 2008 (Department Exhibit #2).

(7) No notice of any kind (approval/denial) was sent to claimant or to [REDACTED] about the status of claimant's application despite multiple [REDACTED] inquiries to the local office about it (Client Exhibit C, pgs 1-4).

(8) When [REDACTED] discovered claimant's formerly pending MA/retro-MA application was no longer showing on the department's accessible computer system as of March, 2008, they filed a hearing request to compel application processing.

(9) By that time, specifically on February 20, 2008, the local office received from claimant a signed document via fax transmittal which authorizes [REDACTED] to represent him (Client Exhibit C, pg 4).

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 broad policy existing at the time this application was filed in December, 2007 states in relevant part:

All Programs

An application is incomplete until it includes enough information to determine eligibility. See [PAM 105](#) for a list of the minimum information required for registering an application.

When an incomplete application is filed, retain the application and give or send the client the DHS-330, Pending Application Notice. It informs the client of the:

- Application date,
- Due date for missing information, **and**
- Interview date, if any.

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, the application must be re-signed and re-dated on the signature page. PAM Item 115, pgs 3 and 4.

Additionally, the specific policy at PAM Item 108, pg 8 states:

An application received from an agency is acceptable if it is signed by an individual and is accompanied by written documentation

from the client authorizing the agency to act as their authorized representative.

Although not directly stated in policy, the corollary is necessarily true, that being: “An application from an agency like [REDACTED] is not acceptable when not accompanied by written documentation from the client authorizing said agency to act on his or her behalf.” Admittedly in such case, the determination of eligibility cannot even begin until the missing authorization is obtained. However, if this circumstance should arise, the department has established the following mandatory procedure for staff to follow precisely in order:

When an assistance application is received in the local office without the applicant’s signature or without a signed document authorizing someone to act on the applicant’s behalf you must do the following:

- Register the application if it contains a signature.
- Send a DHS-723, Incomplete Application Notice, to the agency or the individual who completed the application.
- Send a DHS-330, Pending Application Notice, to the client explaining the need for a valid signature. Signature page of the application may be copied and sent to the agency or individual who filled-out the application with the notice.
- Allow 10 days for a response. You cannot deny an application due to incompleteness until 10 calendar days from the date of your initial request in writing to the applicant to complete the application form or supply missing information, or the initial scheduled interview. PAM Item 110, pg 8.

The record reveals the local office properly registered claimant’s disputed application at Step 1.

At Step 2, the department is required to send an Incomplete Application Notice (DHS-723) to the agency who submitted the application. This is the department-approved form used to clearly, completely and concisely notify agencies like [REDACTED] that written authorization

from the client giving them permission to act on his or her behalf is missing (See RFF 723, pgs 1 and 2). This form lists each specific manual item pertinent to the department's request (PAM 105, 110 and 115), advises the submitting agency to contact the assigned DHS worker immediately if they do not understand, and provides a space to insert the necessary contact information.

This policy should have been followed under the circumstances existing in claimant's case because it was designed to protect applicant rights by providing notice of all applicable policy, as well as notice of the right to contact the department if the instructions are unclear.

After the department sends the DHS-723, PAM Item 110, pg 8 requires them to allow 10 days for a response and says an application denial for incompleteness cannot occur until 10 calendar days from the date of the initial request in writing to supply the missing information. This policy is virtually identical to policy located in PAM Item 115, which is the one of the manual items cited as pertinent authority on the DHS-723. PAM Item 115, pg 4 states:

All Programs

You **cannot** deny an application due to incompleteness until 10 calendar days from the **later** of:

- **Your** initial request in writing to the applicant to complete the application form or supply missing information; **or**
- The initial scheduled interview.

The facts of record show the department incorrectly concluded claimant's MA/retro-MA application could simply be withdrawn without following any of the procedural steps mandated above. As such, the department's refusal to process was erroneous, and it simply cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in processing claimant's disputed MA/retro-MA application.

Accordingly, the department's action is REVERSED and this case is returned to the local office for application reinstatement and processing with the December 28, 2007 registration date referenced in Finding of Fact #4 above. **SO ORDERED.**

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

Date Signed: July 14, 2009


Date Mailed: July 15, 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:

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