

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: 2008-20878

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 26, 2009

Kalamazoo 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 March 26, 2009. Claimant was represented by [REDACTED], [REDACTED].

ISSUE

Did the department properly deny claimant's Medicaid (MA)/retro-MA application for failure to timely provide 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) On December 27, 2007, claimant's authorized representative [REDACTED] filed an MA/retro-MA application on claimant's behalf.

(2) On January 7, 2008, the department sent this authorized representative a Verification Checklist (DHS-3503) requesting certain medical and financial records necessary to determine claimant's eligibility for MA/retro-MA (Department Exhibit #2, pg 1).

(3) Claimant's authorized representative made three timely, separate written requests for extensions of the initial January 19, 2008 deadline the local office set for return of this information, and the department never replied or responded to any of them.

(4) Each of the authorized representative's requests (1/18/08, 1/29/08 and 2/8/08) specifically suggests a new extension deadline date and states:

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 (Department Exhibit #2, pgs 2, 3 and 4).

(5) On February 11, 2008, the local office summarily sent claimant's authorized representative a denial notice which states the disputed application was denied based on their failure to provide the needed information (Department Exhibit #1).

(6) At hearing, the department's witness testified the local office chose that date for sending the denial notice because their internal standard of promptness (SOP) for application processing would have been exceeded if they had waited any longer.

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 departmental policy in effect at the time this denial action was taken stated:

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.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. 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.

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.

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.

With regard to MA-only applications, the department altered its former deadline extension policy (effective 6/1/08) in the following manner:

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 up to three times. PAM Item 130, pg 4.

Consequently, under either the old or the new policy, claimant's authorized representative's request for extensions were valid and they required the department to take some affirmative action in communicating with [REDACTED] about them. Furthermore, PAM Item 115, pg 23 explicitly states:

Exceeding the SOP **cannot** be the **sole** reason for a denial.

If an application is **not** processed by the standard of promptness (SOP) date, document the reason(s) in the case record. Document further delays at 30-day intervals.

The facts of record are clear. The local office did not follow any of the above-referenced policy. As such, their denial on the stated grounds 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 denying claimant's December 27, 2007 MA/retro-MA application on the stated grounds.

Accordingly, this case is returned to the local office for application reinstatement and processing in accordance with policy. **SO ORDERED.**

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

Date Signed: March 30, 2009

Date Mailed: March 31, 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:

