

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: 2008-22236

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 7, 2009

Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on May 7, 2009. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and State Disability Assistance (SDA) based upon its determination that claimant failed to provide verification of citizenship?

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 March 31, 2008, claimant filed an application for Medical Assistance and State Disability Assistance benefits alleging disability.

(2) On April 21, 2008, the department caseworker send claimant a Verification Checklist, DHS-3503 and a DHS-3503C, requesting proof of citizenship with a due date of May 1, 2008.

(3) As of May 5, 2008, proof of citizenship was not provided so the department caseworker denied the application.

(4) On May 5, 2008, the department caseworker sent claimant notice that his application was denied.

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

(5) On June 30, 2008, claimant submitted to the department a State of Michigan birth certificate as proof of verification of citizenship.

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.

A client who refuses or fails to submit to an exam necessary to determine disability or blindness **cannot** be determined disabled or blind and you may deny or close the case. 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.

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.

LOCAL OFFICE RESPONSIBILITIES

All Programs

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees. PAM, Item 105, p. 8.

Informing the Client

All Programs

Inform people who inquire about:

- . the DHS programs available, including domestic violence comprehensive services.
- . their right to apply.

Provide specific eligibility information on any program they are interested. PAM, Item 105, p. 9.

The local office is **not** expected to:

- . Provide estate planning advice, or
- . Determine the effect on eligibility of proposed financial arrangements such as a proposed trust. PAM, Item 105, p. 9.

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.

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.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment.

Exception: Alien information, blindness, disability, incapacity, incapability to declare one's residence and, for FIP only, pregnancy must be verified. Citizenship and identity must be verified for clients claiming U.S. citizenship for applicants and recipients of FIP, SDA and MA. PAM, Item 130, p. 3.

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.

In the instant case, claimant testified on the record that he received his birth certificate on June 30, 2008 from the State of Michigan and turned it into the department on the same day. Claimant's representative submits a December 17, 2007 L-Letter from the Department of Human Services indicating that there is a availability of a DCH birth registry for DHS programs for local office. The program allows FIS, ES, CPS, foster care and adoption workers the ability to retrieve information from the department of Community Health Vital Records/Birth Registry database through real time electronic interface. The most common use for this program is to obtain birth certificate information for assistance programs or court proceedings. The Birth Registry Program allows FIS and ES workers the ability to search birth record abstracts on individuals born in Michigan. This would be a valuable resource in assisting clients that do not have adequate verification of citizenship to meet this eligibility requirement for FIP and Medicaid. FIS and ES workers are to complete an inquiry using the Birth Registry Program on individuals that have not provided documentation of their citizenship or are not located when completing a citizenship inquiry using case management tools.

In the instant case, there is no evidence in the case that the caseworker acted in compliance with L-Letter L-07-149 FIP/Services from Field Operations Administration. The Department of Human Services caseworker did not establish that they received an incomplete record from the Birth Registry Program. The L-Letter indicates that in some situations the birth registry inquiry may return as an incomplete record when location or city or other non-essential information is not available within the vital records database. These records are still adequate verification of citizenship for Medicaid and FIP benefits so long as the record indicates the individual's name, date of birth and State of birth. Since the department has not established that it acted in compliance with its listed L-Letter, this Administrative Law Judge finds that claimant

did provide the verification of his citizenship. Although he did not do it within 10 days, there is no information in the file that indicates that the department took steps to locate claimant's birth information. Accordingly, the department's decision must be reversed under the circumstances.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department did not act in compliance with department policy and/or L- Letter L-07-149 FIP/Services letter issued December 19, 2007 which requires FIS and ES workers to complete an inquiry using the Birth Registry Program on individuals that have not provided documentation of their citizenship.

Accordingly, the department's decision is REVERSED. The department is ORDERED to reinstate claimant's March 31, 2008 application for Medical Assistance and State Disability Assistance benefits and to process the application in accordance with department policy.

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

Date Signed: June 2, 2009

Date Mailed: June 3, 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.

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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:

