

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: 2008-24962

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 26, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's representative's request for a hearing. After due notice, a telephone evidentiary hearing was held on May 26, 2009. Claimant was represented at the administrative hearing by [REDACTED]

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's 3/19/08 Medical Assistance (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 3/19/08, claimant applied for MA with the Michigan DHS. The DHS' application date of 3/27/08 on the hearing summary was incorrect.

(2) Claimant's representative--[REDACTED]--was identified as claimant's authorized representative on the 3/19/08 application.

(3) On 3/27/08, the department mailed a verification checklist to claimant. Exhibit 1. In the right hand corner on the Xerox is an original ink pen statement that says: "cc:

[REDACTED]."

(4) [REDACTED] was present in person at the administrative hearing and personally testified that they did not receive a copy of the verification checklist. The individual who issued the verification checklist was not available at the administrative hearing for testimony and/or cross-examination.

(5) On 5/2/09, the department mailed an Eligibility Notice to claimant denying claimant's application for failure to return the verifications. Exhibit 3. Handwritten, again, on this notice is an original ink pen statement: "cc: [REDACTED], no envelope."

(6) [REDACTED] was at the administrative hearing and personally testified under oath that they did not receive a copy of the application eligibility notice. The individual who had personal knowledge of the issuance of the denial was not present at the administrative hearing for testimony and/or cross-examination.

(7) On June 3, 2008, [REDACTED] e-mailed the worker stating that they never received any kind of notice regarding a disposition of the case. The worker responded stating: "This case is no longer active. You will have to contact the client for denial reason." Claimant Exhibit A. The DHS did not indicate or represent to [REDACTED] that the DHS issued any notices or had any communication with [REDACTED].

(8) On 6/30/08, claimant's representative filed a hearing request.

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).

Applicable policy and procedure to the case herein states in part:

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.

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.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. PAM, Item 105, p. 7.

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.

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.

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.

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.

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.

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

As noted in the Findings of Fact, the individual who had personal knowledge of this case was not present at the administrative hearing for testimony and/or cross-examination.

██████████ personally appeared and testified under oath that they did not receive the verification checklist and/or the denial notice. ██████████ further presented documentation of an e-mail to the worker requesting information on the case and indicating that they had not received a disposition. The worker responded: "... You will have to contact the client for denial reason." The worker did not indicate or represent to ██████████ that the department communicated or sent

any correspondence to [REDACTED]. The worker who had personal knowledge of this case was not present at the administrative hearing for testimony and/or cross-examination.

After careful review of the substantial and credible evidence on the whole record, this Administrative Law Judge finds that [REDACTED] did not fail to comply with the department's verification request as there is no documentary evidence that such requests were issued to [REDACTED]. The [REDACTED] evidence presented at the administrative hearing weighs in favor of [REDACTED] position. For these reasons, and for the reasons stated above, the department is reversed. See PAM Items 105, 115, 210, and 130.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were incorrect.

Accordingly, the department's denial of claimant's 3/19/08 application is REVERSED. The department is ORDERED to reinstate the 3/19/08 application.

The department is further ORDERED to issue a new verification checklist to the authorized representative, giving the authorized representative at least one extension as required under policy and procedure. The department shall process this case in accordance with its usual policy and procedure. The department shall issue a disposition on this case. If claimant should dispute the disposition of this case, claimant will retain a right to a hearing for 90 days from the date of the notice which will be stated in the Application Eligibility Notice.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 26, 2009

Date Mailed: June 29, 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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

JS/cv

cc:

