

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: 2008-25559
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 29, 2009
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 July 23, 2009. Claimant was represented [REDACTED].

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's Medical Assistance (MA)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) September 27, 2007, [REDACTED] applied for MA on claimant's behalf.
- (2) On an unknown date, the application was denied. The reason for the denial is not known. It is not known whether claimant was provided written notice of the department action.

(3) July 8, 2008, the claimant's representative filed a timely hearing request on claimant's behalf.

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 manuals provide the following policy statements and instructions for caseworkers:

Timeliness of Verifications

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.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (e.g., fax, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

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.

MA Only

Send a negative action notice when:

- The client indicates refusal to provide a verification, or

- The time period given has elapsed.

Program Administrative Manual (PAM) 130

MA

42 CFR 435.913(a)

42 CFR 435.916(b)

MCL 400.37

Public Law 109-171

At hearing, the department presented no evidence to establish whether the department's actions taken in regard to claimant's September 27, 2007 application were in compliance with department policy. Finding of Fact 2. Accordingly, the department has not met its burden of proof and its action to deny the application can not be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services did not act in compliance with department policy when it determined claimant's eligibility for Medical Assistance.

Accordingly, the department's action is **HEREBY REVERSED**. The department is to initiate a determination of claimant's eligibility for Medical Assistance beginning with the earliest appropriate retroactive month preceding the September 27, 2007 application date.

/s/

Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 30, 2009

Date Mailed: July 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.

JAB/db

cc:

