

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: 2008-27333

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 25, 2009

Macomb 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 [hereinafter claimant] request for a hearing. After due notice, a three-way telephone hearing was held on June 25, 2009.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P) application on the grounds that claimant failed to comply with the DHS verification request?

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 10/6/06, claimant applied for MA with the Michigan DHS.
- (2) Subsequent to the application, the DHS issued a number of verification checklists with various due dates. The last verification checklist was issued on 9/18/2007. There was no

explanation for the extraordinary delay. The record does not reflect the reason for the delay. The delay was not disputed at the administrative hearing by either party.

(3) The last verification checklist was issued on 9/18/2007. The due date is 9/28/2007.

(4) On 10/2/07, the DHS issued a denial notice for the MA application on the grounds that: "Failed to provide verification information." Exhibit A6.

(5) The individual who had personal knowledge of this case was not available at the administrative hearing for testimony and/or cross-examination.

(6) Claimant's representative provided a confirmation fax issued to the department before the due date--on 9/26/2007, including 9 pages of verifications. The cover sheet indicates that [REDACTED] believes the requests are completed, but if not to please take the fax as a request for an extension. The individual present at the administrative hearing had no knowledge or information regarding the fax and there is no indicate that the department responded to the fax. The department verified at the administrative hearing that the fax number was in fact a correct DHS fax number.

(7) Claimant's representative credibility testified that there was a prior negotiation and stipulation by the department to re-process the application. The department failed to do so.

(8) On 12/27/07, there was a timely hearing request filed.

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).

Verification policy and procedure 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.

In this case, credible evidence on the record indicates that claimant's representative did not fail to comply with the department's request for verification. The confirmed fax indicates that in fact the representative understood that the file was complete pursuant to information faxed to the department prior to the due date. The confirmed fax further indicates that if there was further information necessary, then the representative was requesting that the department consider the fax a request for an extension.

The individual who had personal knowledge of this case was not available for testimony and/or cross-examination at the administrative hearing. The individual present at the hearing indicated that there was no information in the file regarding the fax. As noted, the fax does contain a valid confirmation verification.

Under the above-cited policy and procedure, claimant did not fail to comply with the department's verification requests. PAM Item 105, 130, and 115. The department's denial is reversed for these reasons and for the reasons stated above.

DECISION AND ORDER

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

Accordingly, the department's denial is hereby REVERSED.

The department is ORDERED to reinstate claimant's October 6, 2006 MA application. The department shall issue a Verification Checklist if there are any outstanding verifications, and follow its policy and procedure with regards to collecting those verifications and giving any extensions. The department shall follow its policy and procedure in reprocessing this case. The department shall issue a notice to claimant informing claimant as to the outcome of the new processing, in accordance with its policy and procedure. Claimant shall retain a right to a hearing for 90 days from the date of the new notice.

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

Date Signed: July 20, 2009

Date Mailed: July 21, 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:

