

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: 2008-29249

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 27, 2009

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on May 27, 2009.

ISSUE

Was the claimant's Medicaid application properly denied for failure to return proper 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) In 2007, claimant was awarded Social Security Disability with an onset date of 4-14-06.

(2) On 10-16-07, claimant's Authorized Representative (AR), [REDACTED] applied for disability based Medicaid on behalf of claimant, retroactive to the onset date.

(3) On 10-19-07, DHS sent a DHS-3503, Verification Checklist, to claimant, but not to claimant's AR.

(4) Claimant did not return the verifications, and the application was denied on 10-30-07.

(5) Shortly after, the AR requested a hearing on the basis that the AR was never sent a copy of the verification request.

(6) DHS eventually rescinded the closure without going to hearing, and re-registered the original application on 6-11-08, nearly eight months after the hearing request.

(7) On 6-11-08, claimant and the AR were provided a DHS-3503, Verification Checklist, requesting, among other things, a verification of claimant's assets, and proof of claimant's husband's self-employment income.

(8) The checklist had a due date of 6-23-08.

(9) Though DHS requested verifications that required specific DHS forms (such as a DHS-431 to verify self employment and a DHS-20 to verify assets), there is no evidence that any such forms were ever sent to either claimant or claimant's AR.

(10) On 6-24-08, claimant's AR called claimant's caseworker to request an extension to secure verifications, because the AR was having trouble finding verification of the husband's self-employment income.

(11) Claimant's caseworker informed the AR that she had denied the application a few hours earlier and that she would not reopen the case to give the requested extension.

(12) Claimant's initial application for assistance listed all bank accounts, including account numbers, as well as claimant's assets; the only verification DHS did not have was regarding claimant's husband's self-employment income.

(13) On 8-19-08, claimant's AR requested a hearing, alleging that claimant's Medicaid claim had not been processed after a period of eight months and that the agency had improperly denied the application for failure to return verifications.

(14) Claimant did not appear at the hearing; claimant was represented by [REDACTED], who did appear at the hearing.

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).

Verifications must be provided when required by policy or when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. PAM 130.

All assets and income must be verified. Assets include bank accounts and other types of accounts that contain savings. Income includes any benefits or payments received by an individual, including from self-employment, which can be measured in money. PEM 400, PEM 500.

Verifications must be turned in within a certain period of time. PAM 130 states:

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....Send a negative action notice when:

Furthermore, help must be provided to a claimant in securing verifications if they need and request assistance. PAM 130.

PAM 130 states that a claimant usually has 10 days to provide verifications, but the time limit may be extended if the claimant has trouble providing verifications. A negative action notice may only be sent if the claimant refuses to provide verifications, or the time limit had elapsed and the claimant has not made a reasonable effort to provide the verifications.

More importantly, PAM 130 provides that the time limit for turning in verifications can be extended at least once.

Claimant's AR called on 6-24-08, the negative action date, to request an extension. All sides agree that the AR called at most, only a few hours after the denial had been processed. When the AR explained that there had been trouble securing the verification of self-employment income, and requested an extension, the AR was told that the Department would not grant the extension, because the case had been closed a short time before; had the AR called that very same day, but minutes before the case closure, the Department agreed that it would have granted the extension.

The undersigned sees no reason why two phone calls, both on the date of the negative action, would result in two different case outcomes. A negative action date is the same date for every claimant regardless, and should carry similar penalties. The Department should accept requests for extensions on the date of negative action for every claimant, or it should deny extensions on this date for every claimant; there should be no practical difference depending upon which minute of the day the Department received an extension request.

Furthermore, it appears in this case that the extension was in the Department's power to grant; the Department instead chose instead to rely upon a strict technicality in order to deny claimant's application for disability Medicaid—made more egregious given that there is no dispute that claimant is actually disabled. As the denial notice had not even been sent out at the time of extension request, the undersigned sees no reason that the extension could not have been granted. The Department was therefore in error when it did not do so.

That being said, even if the Department's refusal to grant the extension was correct, the Department committed other acts of reversible error. The Department has presented no evidence that it sent claimant or claimant's AR appropriate verification forms. The Department submitted as its Exhibit 3 a DHS-3503 requesting various forms, including a DHS-431 and a DHS-20. However, no evidence has been submitted that these forms were ever sent to claimant or claimant's AR.

Claimant could not have submitted verifications it did not have; therefore, the Department could not penalize claimant for failing to return these verifications. That it did so was also error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny claimant's Medicaid application based upon the failure to provide requested verifications was incorrect.

Accordingly, the Department's decision is, hereby, REVERSED.

The Department is ORDERED to re-register and process claimant's original application of 10-16-07. Should the Department require additional verifications in order to process

claimant's application, these verifications should be secured per the regulations provided in the Program Administrative Manual.

/s/ _____
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 10, 2009


Date Mailed: June 10, 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.

RJC/cv

cc:

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