

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 200830308
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date: June 23, 2009
Branch 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 request for a hearing. After due notice, a 3-way telephone hearing was held on 6/23/09 with claimant's representative. Claimant was represented by [REDACTED].

ISSUES

1. Was the 90-day window tolled due to a defective Application Eligibility Notice pursuant to claimant's 3/31/08 Medicaid application?
2. Did the DHS properly deny claimant's 3/31/08 Medicaid 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 3/31/08, [REDACTED] applied on behalf of claimant for Medicaid.
2. On 4/2/08, the DHS issued a verification checklist to claimant. The DHS had no evidence that it issued a copy of the checklist to [REDACTED]
3. The due date for the verifications was 4/11/08.

4. On 4/17/08, the DHS issued notice to claimant and [REDACTED] denying claimant's application for the following reason: "Failure to return required verifications (ID and birth certificate)." The notice lacks any manual policy reference(s). Exhibit A, 9.
5. The application eligibility notice was defective and did not meet DHS policy requirements.
6. On 8/29/08, [REDACTED] 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).

ISSUE ONE

Under general policy and procedure as well as law, notices issued to applicants of a case action must include very specific identifying information in order to meet the legal requirements indicated by DHS policy and law. Among the requirements is that the notice contain: "The specific manual item which cites the legal basis for an action or the regulation or law itself." PAM Item 220, p. 2.

In this case, the Application Eligibility Notice clearly fails to indicate the manual policy references applicable to the denial herein. The line next to the PEM and PAM cites was left blank.

General interpretative stances by SOAHR have been to find such notices illegal and failing to meet specific DHS policy and procedure requirements. General interpretation by SOAHR has been that in such cases, the 90-day window would not run.

Evidence on the record indicates that the hearing request was filed beyond the 90-day window. However, this Administrative Law Judge finds the notice defective and thus, the 90-day window is tolled. Thus, claimant's hearing request is not untimely and jurisdiction is proper.

ISSUE TWO

As noted in the findings of facts, the DHS notified claimant of the verification checklist. The DHS however, did not have any evidence to indicate that it notified claimant's representative. Policy and procedure requires the department to notify the representative once it has notification that there is a representative on the file. In this

case, it is unrefuted that [REDACTED] was a representative in claimant's case. The department failed to notify the representative of the verification checklist. Thus, as the department has failed to follow its policy and procedure, the department's actions must be reversed. BAM Item 600.

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 3/31/08 Medicaid application is REVERSED. The department is ordered to reinstate the application and to issue any verification checklists necessary in this case in order to complete the verification request(s) by the department. The department shall give claimant's representative time to return the verification as required under general DHS policy and procedure.

/s/ _____

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

Date Signed: December 20, 2010

Date Mailed: December 21, 2010

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 receipt date of the rehearing decision.

JS/vc

cc:

[REDACTED]

