

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: 2008-30357

Issue No: 2012

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 20, 2009

Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 May 20, 2009. Claimant personally appeared. He was assisted by [REDACTED]

ISSUE

Did the department properly process claimant's October 28, 2005 retro-Medicaid (retro-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 October 28, 2005, claimant's authorized representative ([REDACTED]) filed a retro-MA application seeking benefits for July, August and September, 2005 (Department Exhibit #1, pg 18).

(2) When that application was denied, claimant's authorized representative filed a hearing request.

(3) On September 8, 2006, [REDACTED] issued a decision affirming claimant's application denial.

(4) Subsequently, claimant's authorized representative petitioned for Reconsideration.

(5) An Order Of Reconsideration was issued by Supervisory Administrative Law [REDACTED] on June 4, 2008 (Department Exhibit #1, pg 22).

(6) This Order specifically required the local office to allow claimant's authorized representative the opportunity to submit certain verifications necessary for application processing (Department Exhibit #1, pg 22).

(7) On June 10, 2008, the local office mailed a Verification Checklist (DHS-3503) to the authorized representative but they used an obsolete address where [REDACTED] was no longer doing business.

(8) The department knew or should have known of [REDACTED] operating address by that time because that was the address [REDACTED] provided when they filed their first hearing request, which was upheld on appeal (See Finding of Fact #3 above).

(9) However, the mistake occurred because by June, 2008, the caseworker who originally processed claimant's October 28, 2005 retro-MA application no longer worked for the department, and the currently-assigned caseworker found the wrong address and used it instead.

(10) By the time the U. S. Post Office forwarded the verification checklist to [REDACTED] the stated deadline for submission of verifications (6/25/08) had passed (Department Exhibit #1, pg 4).

(11) Immediately upon receipt of the verification checklist, specifically, two days beyond the stated deadline, ██████ attempted to contact the currently-assigned caseworker; when he was not in his office that day, ██████ left a voicemail message asking for a return call so this circumstance could be discussed and resolved (Client Exhibit A).

(12) Three days later, (6/30/08), the currently-assigned caseworker returned this call; he heard a message telling him the patient advocate handling this matter (the same individual who attempted to contact him) would be gone on vacation until July 7, 2008.

(13) At that point and on that date (6/30/08), the currently-assigned caseworker summarily issued a written application denial to ██████ because the verifications were late (Department Exhibit #1, pg 2).

(14) On August 26, 2008, ██████ filed a hearing request to compel the disputed application's reinstatement and processing consistent with the Order Of Reconsideration referenced in Finding of Fact #5 and #6 above.

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).

The applicable policy states:

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.

AUTHORIZED REPRESENTATIVES

All Programs

An **Authorized Representative** (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (e.g., to obtain FAP benefits for the group.) An AR is not the same as an Authorized Hearing Representative (AHR) PAM, Item 110, p. 6.

The AR assumes all the responsibilities of a client. See PAM 105. PEM, Item 110, p. 7.

The evidence of record is clear. First, the local office knew or should have known [REDACTED] correct business address (See Finding of Fact #8 above). Second, because the local office did not send the verification checklist to [REDACTED] correct business address, [REDACTED] did not receive it before the department's deadline passed (See Finding of Fact #10 above). Third, without ever attempting to discern what happened by personal contact with someone at [REDACTED] while the person handling claimant's case was on vacation (or waiting for that person's return) the local office summarily denied the application (See Finding of Fact #12 and #13 above).

[REDACTED] did not refuse to cooperate in providing the requested verification. In fact, [REDACTED] has set forth a prima facie case establishing they were unable to meet this deadline through no

fault of their own by departmental error. As such, the local office's denial simply cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in refusing to process claimant's October 28, 2005 retro-MA application.

Accordingly, the department's action is REVERSED, and this case is returned to the local office for compliance with the Order of Reconsideration signed June 4, 2008. **SO ORDERED.**

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 27, 2009

Date Mailed: May 28, 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.

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MBM/db

cc:

