

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: 2008-30404

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 29, 2009

Lenawee County DHS

ADMINISTRATIVE LAW JUDGE: Susan Payne Woodrow

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 29, 2009. Appearing on behalf of the claimant was [REDACTED]. Appearing on behalf of the Department was Cindy Brown, Family Independence Manager. Both parties were duly sworn.

ISSUE

Whether the department properly denied the claimant's Medical Assistance 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 January 31, 2008, [REDACTED] daughter of [REDACTED], completed an application for long-term care benefits on behalf of her mother who had been placed in a nursing home.
2. [REDACTED] is fragile and has significant memory problems.
3. On March 7, 2008, their attorney, [REDACTED], sent the application to the Department, certified return receipt.
4. The application contained all of the financial records of [REDACTED]
5. The application listed the nursing home address as well as the claimant's homestead address of [REDACTED], [REDACTED] where her daughter continued to live.
6. The Department representative sent a verification checklist to the nursing home on March 31, 2008 with a due date of April 14, 2008.
7. There is no proof that anyone at the nursing home had filed to be the personal representative of [REDACTED]
8. There is no proof that the mail was sent to [REDACTED] in care of the nursing home.
9. There is no proof that the mail was delivered to [REDACTED] by the nursing home.
10. Regardless, [REDACTED] does not have the memory ability to process her mail.
11. The information requested in the verification checklist had already been submitted with the application on March 7, 2008.
12. Medicaid was denied on April 25, 2008.
13. The denial was sent to the nursing home.

14. At no time were any documents sent to the daughter at the address where she lives and listed on the face of the application as claimant's homestead.
15. It was not until August 2008 that the nursing home indicated they were not being paid directly.
16. Immediately after being notified that the Department had not process the application, matter was appealed.

CONCLUSIONS OF LAW

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services ("DHS"), formally known as the Family Independence Agency, 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").

Under PAM, Item 105, customers must cooperate with the local office in determining initial and ongoing eligibility. This includes completing necessary forms. Customers must take actions within their ability to obtain verification. The local office must assist customers who ask for help in completing forms or gathering verification. Particular sensitivity must be shown to customers who are illiterate, disabled, or not fluid in English. The agency must allow the client 10 calendar days (or other time limit specified in policy) to provide verification requested. If the client cannot provide the verification despite a reasonable effort, the agency must extend the time limit at least once. The agency is to send a negative action notice when (a) the client indicates a

refusal to provide a verification, or (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. Only adequate notice is required for application denial. PAM, Item 130. An authorized representative is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf. PAM, Item 110. The authorized representative assumes all the responsibilities of a client. PAM 110.

In the present case, the department needed verification from claimant to establish her eligibility under the Medical Assistance program. The department mailed the Verification Checklist to claimant's address requesting this verification although the items had already been included in the application package sent on March 7, 2009. The department had notification that claimant had an authorized representative. Policy, as cited above, necessitates that notice must be sent to the authorized representative since the authorized representative "assumes all the responsibilities of a client". At the hearing the department's representative testified that the department was unable to verify whether or not a Verification Checklist was also sent to the authorized representative. The authorized representative indicated that no request for verification for claimant was received. Since the verification was not received by the authorized representative, this Administrative Law Judge cannot find that claimant failed to cooperate in providing the requested verification. The authorized representative had no knowledge that verifications were requested. This Administrative Law Judge finds that the department has acted in error in denying claimant's Medical Assistance case due to claimant's failure to cooperate. The department should reinstate claimant's application for Medical Assistance and process the application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not adequately notify the claimant's representative at a proper address. Therefore, it was not until the nursing home indicated to the personal representative that they had not been paid that claimant's representative was aware of any difficulties and promptly filed this appeal. The Department has failed to follow proper procedures in processing this application. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's denial of the Claimant's MA application is not upheld.

Accordingly, **it is Ordered:**

1. The Department's denial of the MA application is REVERSED.
2. The Department shall re-open and process the Claimant's January 31, 2008 MA application, received March 7, 2008, in accordance with department policy for the effective date of March 7, 2008.
3. The Department shall supplement the Claimant for any lost benefits she was otherwise eligible and qualified to receive in accordance with department policy.

/s/

Susan Payne Woodrow
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 30, 2009

Date Mailed: August 5, 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.

2008-30404/SPW

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.

SPW/law

cc:

