

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: 2008-30710

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 5, 2009

Jackson 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 hearings representative's request for a hearing. After due notice, a three-way telephone conference hearing was held on May 5, 2009. Claimant did not appear.

Claimant was represented at the administrative hearing by [REDACTED]

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's retro MA application for the months of May and July, 2007 on the grounds that claimant failed to comply with the department's 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 8/30/07, claimant's application for MA was received from [REDACTED] with the Michigan DHS.

(2) [REDACTED] filed two separate retro MA applications--one for May, 2007, and one for July, 2007, the only months at issue herein.

(3) On October 18, 2007, [REDACTED] issued a letter to the Jackson County DHS where claimant's application was registered. The letter stated in part:

Request for checklist if information is needed on Medicaid application for [claimant]. Attached is 2565 Facility Admissions Notice. I submitted a Medicaid application for the above client on 8/30/2007. As of this date, I have not received a copy of the checklist. If additional information is needed in order to process this application, would you please send a copy of the checklist so that I may assist the client in obtaining any requested verification.

The fax is accompanied by a faxed transmittal confirmation.

(4) On January 7, 2008, the department issued a verification checklist requesting certain asset verifications along with: "Other: July 2007 medical bills." The verification checklist was addressed to claimant and not to claimant's representative.

(5) The department was confused at the administrative hearing and did not have the entire file present.

(6) The department issued a second verification checklist existed with a request for May, 2007 medical bills. The verification checklist contained the identical issuance date and the same due date of 1/17/08.

(7) [REDACTED] contacted the worker who was present at the administrative hearing by phone on 1/16/08, 2/12/08, and 3/5/08.

(8) The department stipulated that MA was opened effective August 2007. The department testified that there was a separate MA application filed by claimant without [REDACTED]

The department indicated that the application date was October 18, 2008. The department subsequently indicated that it was unclear when the application was taken.

(9) The department does not have a policy of accepting two separate applications in one month and processing them separately.

(10) The department had no evidence as to from what application the August, 2007 MA was opened on behalf of claimant.

(11) Upon inquiry, the department indicated that the case “fell through” due to the retirement of one worker who had initial possession of the application.

(12) The department was unclear as to what conversations took place with [REDACTED]

(13) On 3/6/08, the DHS denied claimant’s retro application without indicating which month(s) for the following reason: “Did not return requested items.” Exhibit 3.

(14) On 6/5/08, claimant’s representative 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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

General 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.

Do **not** deny eligibility due to failure by a person **outside** the group to cooperate with a verification request. In applying this policy, a person is considered a group member if residing with the group and is disqualified: See “**Disqualified Persons**” in PEM Item 212. PAM, Item 105, p. 5. 7 CFR 273.1.

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.

The facts in this case were very confusing. In essence, the department did not process this case for seven months. The department testified that this was due to the fact that the worker who had initial possession of the case had retired. At the same time, the department was unable to account for a number of facts relevant to the case. Specifically, claimant's case was opened effective August, 2007. Upon inquiry as to how the case could have been opened in August, 2007, the department indicated that claimant had made a separate application without having [REDACTED] represent her. However, in order for this to have happened, the department would have taken the two applications for the same month. The department was not aware of any policy that would permit the taking of two applications in the same month. More importantly, the DHS did not have the entire file at the administrative hearing to substantiate the facts it was alleging.

The department was also unclear as to why claimant's application did not contain the retro MA application. The department testified that there had to be other files and other verifications in

existence which were not part of the file it had at the administrative hearing. The department did not know their location.

At administrative hearings, the department has the burden of proof to show that the actions taken in the case were consistent with policy and procedure. In this case, the department failed to act for months. The department's request for verification(s) oddly was contained on two separate verification requests (DHS-3503) which the department indicated it mailed in the same letter and copied [REDACTED]. Both of these contained different retro MA month requests for verification. Claimant's representative disputed these facts.

The department also did not have a response as to why it failed to respond to [REDACTED] numerous inquiries.

[REDACTED] presented evidence of an October 18, 2007 confirmed faxed transmission indicating that it was requesting a checklist and/or any additional information needed in order to have the application processed.

In this case, the department failed to clearly inform claimant's representative as to what was necessary and when it was due. Reviewing the facts in this case, [REDACTED] did not demonstrate a failure to act at any point in time and specifically requested assistance with any necessary verification(s). The department failed to respond. For these reasons, and for the reasons stated above, the department's actions are reversed.

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 is REVERSED. The department is ORDERED to reinstate the retro MA applications for May and July, 2007. The department shall issue a

verification checklist to [REDACTED] with any requested outstanding verification(s) giving [REDACTED] one extension if requested. It is SO ORDERED.

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

Date Signed: June 15, 2009

Date Mailed: June 16, 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:

[REDACTED]