

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: 2008-8383

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 8, 2009

Genesee 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 representative's request for a hearing. After due notice, an in-person hearing was held on July 8, 2009. Claimant was represented at the administrative hearing by [REDACTED]

ISSUE

Did the Department of Human Services (DHS) properly process claimant's September 19, 2007 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 9/12/2007, [REDACTED] [hereinafter [REDACTED] or "claimant"] filed an application for MA on behalf of claimant with the Michigan DHS. [REDACTED] filed a retro MA application.

(2) The department stipulated at the administrative hearing that it failed to communicate with [REDACTED] but did communicate with claimant.

(3) On 10/17/07, the DHS denied claimant's application without notifying [REDACTED]

(4) Upon request by [REDACTED], the DHS agreed to reinstate claimant's MA application and reissued a Verification Checklist to [REDACTED]. The department stipulated at the administrative hearing that it failed to issue a Verification Checklist and did not issue any notice to [REDACTED] regarding the disposition of the MA case.

(5) On 10/7/08, [REDACTED] filed a hearing request. Under these facts, the hearing request is not untimely.

(6) Claimant and the department stipulated at the administrative hearing that all the necessary verifications needed are either in the department's possession or are included in Claimant Exhibit A attached to claimant's 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).

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.

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.

ELIGIBILITY DECISIONS

Denials

All Programs

If the group is ineligible **or** refuses to cooperate in the application process, send a denial notice within the standard of promptness. PAM, Item 115, p. 15.

Regarding communication with clients and/or representatives, policy requires the department to communicate with a representative where one is identified. See PAM Items 105 and 130.

In this case, the department stipulated that it failed to communicate with [REDACTED] Upon inquiry by [REDACTED] after the department denied the application, the department agreed to reinstate the application and reprocess. Some testimony indicates that the department issued a new Verification Checklist. However, the department once again stipulated at the administrative hearing that in the subsequent review it failed to follow through and communicate with [REDACTED] or issue a notice as to the outcome of the subsequent review.

After careful review of the substantial and credible evidence on the whole record, this Administrative Law Judge finds that the department failed to follow its policy and procedure with regards to communicating with the representative in this case in following its general verification policy and procedure. Thus, the department's denial issued to claimant is hereby reversed. The department is ordered to reinstate the 9/12/07 application including three months of retro MA back to June, 2007. The parties stipulated that all necessary verifications are present in the local

office file and/or contained in Claimant Exhibit A attached to the hearing request for the instant case. The department is ordered to reprocess this case and issue notice to [REDACTED] as to the disposition of the case. [REDACTED] shall retain a right to a hearing for 90 days from the date of the new notice.

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 not correct.

Accordingly, the department's denial is hereby REVERSED.

The department is ORDERED to reinstate claimant's 9/12/07 application, including three months of retro MA. The department is ORDERED to reprocess this case. The department and claimant stipulated at the administrative hearing that all necessary verifications are contained in the department's file and/or in Claimant Exhibit A attached to the hearing request for the instant case.

The department shall issue notice in this case to [REDACTED] shall retain a right to a hearing for 90 days from the date of the new notice should it dispute the outcome of the new reprocessing. It is SO ORDERED.

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

Date Signed: August 10, 2009

Date Mailed: August 11, 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:

