

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
[REDACTED]

Reg. No: 2008-9840
Issue No: 2006; 4003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 25, 2008
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Jana B. Bachman

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, an in-person telephone hearing was held on September 25, 2007.

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's eligibility for Medical Assistance (MA) and State Disability Assistance (SDA).

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) June 29, 2007, claimant applied for MA and SDA. July 5, 2007, claimant was provided with a Verification Checklist (DHS-3503) indicating the required proofs and giving a deadline of July 25, 2007. The deadline was extended until July 30, 2007. Department A.

(2) August 28, 2007, the department sent claimant written notice that her application was denied due to failure to provide proper proof of identity. Department A.

(3) November 27, 2007, the department received claimant's timely request for hearing.

CONCLUSIONS OF LAW

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).

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).

Department manuals provide the following policy statements and instructions for caseworkers:

Tell the client what verification is required, how to obtain it, and the due date. Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification.

Use the DHS-3503C, Verification Checklist for Citizenship/Identity to request documentation of citizenship or identity for FIP, SDA, and Medicaid determinations.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.

Citizenship and identity must be verified for clients claiming U.S. citizenship for applicants and recipients of FIP, SDA and MA.

“Verification Sources” of each PEM item lists acceptable verifications for specific eligibility factors. Other, less common sources may be used if accurate and reliable.

Use a particular source if it is the most reliable (e.g., public records). Otherwise, use the one easiest to obtain.

Refer to PEM 225 for a list of acceptable documents to use to verify citizenship. Sources must be used in the order listed from most reliable to least reliable, not the easiest to obtain.

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

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.

MA Only

Send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed.

Only adequate notice is required for an application denial.

Program Administrative Manual (PAM) 130

LEGAL BASE

SDA

Annual Appropriations Act

MA

42 CFR 435.913(a)
42 CFR 435.916(b)
MCL 400.37

Public Law 109-171

The identity of U.S. citizens must be verified for clients age 16 and above. Non-U.S. citizens are not required to verify identity unless questionable.

- Current, valid driver's license with a photograph of the individual.
- State-issued identification card with the same information included on a driver's license.
- School-issued identification with a photograph.
- U.S. military card or draft record.
- Document indicating a client's receipt of benefits under a program which requires verification of identity (e.g., SSI, RSDI).
- A U.S. passport.
- A Certification of Naturalization (Department of Homeland Security, (DHS) Forms N-550 or N-570).
- A Certificate of U.S. Citizenship (DHS Forms N-560 or N-561).
- Military dependent's identification card.
- Certificate of Degree of Indian Blood, or other U.S. American Indian/Alaska Native tribal document.
- U.S. Coast Guard Merchant Mariner card.

Program Eligibility Manual (PEM) 221

SDA

DHS Annual Appropriations Act
R 400.3171 MAC

MA

MCL 400.105

Deficit Reduction Act (DRA) of 2005, Public Law No. 109-171
Subsection 1903(x) of the Social Security Act

U.S. citizenship must be verified with an acceptable document to receive Medicaid.

Primary evidence of citizenship is documentary evidence of the highest reliability that conclusively establishes that the person is a U.S. citizen. In general, obtain primary evidence of citizenship before using secondary evidence.

Primary evidence of citizenship is:

- A U.S. passport.
- A Certificate of Naturalization (N-550 or N-570).
- A Certificate of Citizenship (N-560 or N-561).

Secondary Evidence

Secondary evidence of citizenship is documentary evidence of satisfactory reliability that is used when primary evidence is not available. Secondary evidence is:

- A U.S. public birth record showing birth in one of the 50 United States, District of Columbia, American Samoa, Swain's Island Puerto Rico (if born on or after January 13, 1941), Virgin Island of the U.S. (if born on or after January 17, 1917), Northern Mariana Islands (if born on or after November 4, 1986) or Guam (if born on or after April 10, 1899).
- Certification of Report of Birth (DS-1350). The Department of State issues a DS-1350 to U.S. citizens in the U.S. who were born outside the U.S. and acquired U.S. citizenship at birth based on the information shown on the FS-240.
- Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240). Children born outside the U.S. to U.S. military personnel usually have one of these.
- Certification of Birth Abroad (FS-545). Before November 1, 1990 Department of State consulates also issued Form FS-545 along with prior version of the FS-240. In 1990, U.S. consulates ceased to issue Form FS-545. Treat an FS-545 the same as the DS-1350.
- United States Citizen Identification Card (I-197 or I-179). INS issued Form I-179 and I-197 to naturalized U.S. citizens living near the Canadian or Mexican borders who needed it for

frequent border crossings. Although neither form is currently issued, either form that was previously issued is still valid.

- American Indian Card (I-872). The Department of Homeland Security, (DHS), issues this card to identify a member of the Texas Band of Kickapoos living near the U.S./Mexican border. A classification code “KIC” and a statement of the back denote U.S. citizenship.
- Northern Mariana Card (I-873). INS issued this form to a collectively naturalized citizen of the U.S. who was born in the Northern Mariana islands before November 4, 1986. The card is no longer issued, but those previously issued are still valid.
- Final adoption decree. The decree must show the child’s name and U.S. place of birth. In situations where an adoption is not finalized and the State in which the child was born will not release a birth certificate prior to final adoption, a statement from a State approved adoption agency that shows the child’s name and U.S. place of birth is acceptable. The adoption agency must state in the certification that the source of the place of birth information is an original birth certificate.
- Evidence of civil service employment by the U.S. government. The document must show employment by the U.S. government prior to June 1, 1976.
- Official Military record of service. The document must show a U.S. place of birth, (a DD-214 or similar official document showing a U.S. place of birth.)

Third Level Evidence

Third level evidence of U.S. citizenship is documentary evidence that is used when neither primary nor secondary evidence is available. Third level evidence may be used only when primary evidence cannot be obtained within a reasonable length of time, secondary evidence does not exist or cannot be obtained, and the applicant or recipient alleges being born in the U.S. Third level evidence is usually a non-government document established for a reason other than to establish U.S. citizenship and showing a U.S. place of birth. The place of birth on the non-government document and the application must agree.

Third level evidence is:

- An extract of a hospital record on hospital letterhead, established at the time of birth and was created at least five (5)

years before the initial application date and indicates a U.S. place of birth. Do not accept a souvenir “birth certificate.”

- Life, health, or other insurance record showing a U.S. place of birth and was created at least five (5) years before the initial application date.

Fourth Level Evidence

Fourth level evidence should only be used in the rarest of circumstances and includes:

- Federal or State census record showing U.S. citizenship or a U.S. place of birth, generally for persons born 1900 through 1950. The census record must show the person’s age. To secure this information the applicant, recipient, or State should complete a Form BC-600, Application for Search of Census Records for Proof of Age. Add in the remarks section “U.S. citizenship data requested.” Also indicate that the purpose is for Medicaid eligibility. This form requires a fee.
- Seneca Indian tribal census record.
- Bureau of Indian Affairs tribal census records of the Navaho Indians.
- U.S. State Vital Statistics official notification of birth that is amended more than five (5) years after the person’s birth.
- Statement signed by the physician or midwife who was in attendance at the time of birth.

Institutional admission papers from a nursing facility or other institution or medical records from a hospital, doctor, or clinic and was created at least five (5) years before the initial application date and indicates a U.S. place of birth. Admission papers generally show biographical information including a place of birth. An immunization record is not considered a medical record for purposes of establishing U.S. citizenship.

A written affidavit, an affidavit should only be used in rare circumstances. It must be completed by at least two individuals of whom one is not related to the applicant/recipient and who have personal knowledge of the event(s) establishing the person’s claim of citizenship. The person making the affidavit must be able to provide proof of his/her own citizenship and identity. The affidavit is signed under penalty of perjury by the person making the affidavit. The affidavit should include

information explaining why documentary evidence establishing the applicant's claim of citizenship does not exist or cannot be obtained.

PROGRAM ELIGIBILITY MANUAL (PEM) 225

All Programs

P.L. 104-193 of 1996, as amended

P.L. 106-386 of 2000

65 FR 58301

MA

42 CFR 435.403, 406, 407, Public Law 109-171

Deficit Reduction Act 2005, Social Security Act 1903(x), PL 109-171

SDA

P.A. 109 of 1997

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary.

PAM 105

SDA

P.A. 294 of 1998

R400.3155 MAC

MA

42 CFR 431, 435

MCL 400.60(2)

In this case, the department properly notified claimant of the required proofs needed to determine eligibility. PAM 130, 105; PEM 225; Finding of Fact 1. When claimant reported that she was having difficulty obtaining her birth certificate and picture ID, she was properly granted a number of extensions of the deadline for them to be turned in. Finding of Fact 1. At hearing, claimant [REDACTED] not issue her a State of [REDACTED] she provided her birth certificate and another picture ID. Claimant stated

that she obtained her birth certificate about 3 weeks prior to the application being denied, but did not have a picture ID to take to [REDACTED] wanted the department to help her get a picture ID. Claimant did not provide a copy of her birth certificate to the department. Finding of Fact 2.

It is unclear what assistance the department could have provided to claimant so that she could obtain a picture ID. The [REDACTED] a number of documents that would be acceptable proof of identity (SOS-428). It appears the SOS agency would be of greater assistance to claimant in meeting their requirements. Department policy does not provide for exceptions to the policy that applicants must provide proper proof of identity. PAM 105, 130; PEM 221, 225. The department gave claimant 2 months to provide proof of identity. When she did not do so, the department properly denied her application. Finding of Fact 1-2. Accordingly, the department has met its burden of proof and its action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services acted in compliance with department policy when it denied claimant's application for assistance.

Accordingly, the department's action is **HEREBY UPHELD**.

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

Date Signed: January 5, 2009

Date Mailed: January 6, 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.

JBB

[REDACTED]