

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: 2009-13132
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 10, 2009
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Thursday, December 10, 2009. The claimant was present and represented by her authorized representative, [REDACTED]

ISSUE

Did the department properly determine that there was no application filed by [REDACTED] on August 28, 2008?

FINDINGS OF FACT

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

(1) During the hearing, the authorized representative stated that [REDACTED] had faxed an incomplete application to the Kalamazoo County DHS on August 28, 2008 and [REDACTED] had a copy of the fax with a confirmation sheet. (Claimant Exhibit 1-5)

(2) During the hearing, the department caseworker testified that the department did not receive the August 28, 2008 fax from [REDACTED] but did concede that they were having fax problems at that time and that they were not aware of their fax problems until someone called after having problems faxing.

(3) During the hearing, the authorized representative from [REDACTED] stated that they never sent the hard copy after the fax nor did they complete the application.

(4) On January 8, 2009, the department received a hearing request from the claimant's authorized representative, contesting the department's failure to register and process an August 28, 2008 application for Medical Assistance with retroactive coverage to May 2008.

(5) During the hearing, the authorized representative stated that [REDACTED] called on November 21, 2009 and left a message for the Family Independence Manager (FIM) where they had a pre-hearing conference on February 20, 2009 where there was no application in the file so the department could not register the application because there was no application received.

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 department's program eligibility manuals provided the following relevant policy statements and instructions for caseworkers.

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.

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Client Cooperation

The client is responsible for providing evidence needed to prove disability or blindness. However, you must assist the client when they need your help to obtain it. Such help includes the following:

- . Scheduling medical exam appointments
- . Paying for medical evidence and medical transportation
- . See PAM 815 and 825 for details. PEM, Item 260, p. 4.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

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.

LOCAL OFFICE RESPONSIBILITIES

All Programs

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees. PAM, Item 105, p. 8.

In the instant case, [REDACTED] testified that they faxed an incomplete application on August 28, 2008 to the department. [REDACTED] has provided a fax confirmation sheet that stated that the fax was received okay along with the subsequent pages that were faxed. The department caseworker testified that the department did not receive the fax, but that they were having fax problems around that time of August 28, 2008. [REDACTED] never sent the hard copy after sending the fax on August 28, 2008, nor did they complete the application.

This Administrative Law Judge finds that since the department was having fax problems during the contested time period that they should have allowed [REDACTED] to resubmit the application and process the application accordingly.

Therefore, the department has not established that it was acting on compliance with department policy by determining that there was no application filed on August 28, 2008 even though they were having problems with their fax during that time period.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not appropriately determine that there was no application submitted on August 28, 2008 when they were having fax problems during the contested time period.

Accordingly, the department's decision is **REVERSED**. The department is ordered to process the August 28, 2008 application in accordance with department policy.

/s/

Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 12, 2010

Date Mailed: January 12, 2010

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 receipt date of the rehearing decision.

CGF/vmc

cc:

[REDACTED]