

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: 2009-17612

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 24, 2010

Clinton County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. 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, a telephone hearing was held on February 24, 2010. Claimant was represented by [REDACTED].

ISSUE

Whether the Department of Human Services (department) properly applied department policy to claimant's circumstances.

FINDINGS OF FACT

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

(1) October 30, 2008, the department received claimant's application for Medical Assistance (MA) and Food Assistance Program (FAP) benefits.

(2) November 15, 2008, a Verification Checklist (DHS-3503) was sent to claimant indicating proofs needed and setting a deadline for them to be provided.

(3) December 2, 2008, the department denied claimant's application.

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).

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

Allow the client ten calendar days or other time limit specified in policy to provide the verification needed. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least three times for Medical Assistance. Verifications are considered to be timely if received by the date they are due. Send a negative action notice when the client indicates refusal to provide a verification or the time period given has elapsed. Tell the client what verification is required, how to obtain it, and the due date. Use the DHS-3503 Verification Checklist to request verification. Bridges Administrative Manual (BAM) 130, 42 CFR 435.913(a); 42 CFR 435.916(b); MCL 400.37; Public Law 109-171.

In this case, the department asserts that claimant's authorized representative was provided with copies of the checklist and the Application Eligibility Notice. At hearing, the claimant's authorized representative credibly testified that neither of these forms were received. The authorized representative asserted that the department was contacted a number of times and did not respond to inquires. The department employee who had allegedly sent the notices did not

attend the hearing and so was not able to provide sworn testimony as to her actions. As such, the department has not met its burden of proof and its action cannot 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 did not act in compliance with department policy when it determined claimant's eligibility for Medical Assistance.

Accordingly, the department's action is, hereby, REVERSED. The department is to initiate a determination of claimant's eligibility for Medical Assistance in compliance with this Decision and Order and department policy.

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

Date Signed: April 22, 2010

Date Mailed: April 22, 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 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.

2009-17612/jab

JAB/db

cc:

