

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: 2009-21953

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 9, 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, a three-way telephone conference hearing was held on December 9, 2009. Claimant did not appear.

Claimant was represented at the administrative hearing by [REDACTED]

ISSUE

Did the Department of Human Services (DHS) properly process claimant's application for Medical Assistance?

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 9/29/08, [REDACTED] faxed an incomplete application for Medicaid to the DHS on behalf of claimant. The application was signed by an individual from [REDACTED] and not claimant. The application contained the minimum requirements under BAM 105.

(2) There is no evidence in the file to indicate that [REDACTED] accompanied the 9/29/08 fax with an authorization to represent.

(3) On 10/28/08, [REDACTED] delivered a completed application to the DHS.

(4) The DHS did not register the application, did not issue a DHS-3503, did not issue a DHS-723, or a DHS-330.

(5) The DHS did not send a denial notice.

(6) On 3/23/09, [REDACTED] filed a hearing request.

(7) After the administrative hearing record closed, [REDACTED] faxed documents to the undersigned Administrative Law Judge which were not agreed upon at the administrative hearing, these documents were not admitted into the record.

#### 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).

Under BAM, Item 105, policy states:

#### **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.

## **CLIENT RIGHTS**

### **Right to Apply**

#### **All Programs**

On the **same day** a person comes to the local office, he has the right to file an application and get local office help to provide the minimum information for filing.

An application **or** filing form, whether faxed, mailed or obtained from the internet must be registered with the receipt date, **if** it contains at least the following information:

- Name of the applicant.
- Birth date of the applicant (not required for FAP).
- Address of the applicant (unless homeless).
- Signature of the applicant/authorized representative.

BAM Item 105, p. 1

In this case, unrefuted evidence on the record is that the application contained the first three dingbats, and the signature of the authorized representative.

Unrefuted evidence on the record is that the application was incomplete as it did not contain all the necessary information for a Medicaid application. Under BAM 115, policy indicates what the department is required to do when it receives an incomplete application:

## **INCOMPLETE APPLICATIONS**

### **All Programs**

An incomplete application contains the minimum information required for registering an application. See BAM 105. However, it does not contain enough information to determine eligibility, i.e., all required questions are not answered for the program(s) for which the client is applying.

When an incomplete application is filed, retain the application and give or send the client the DHS-3503, Verification Checklist, from MSWord. Inform the client of the:

- Request for contact to complete missing information.
- Due date for missing information, **and**
- Interview date, if applicable.

BAM Item 115, p. 3.

In this case, the department initially argued that [REDACTED] could not represent claimant absent a court order. During the hearing, a recess was given to the department to obtain the necessary authority to support its argument. The department returned without any authority to support its argument that a court order was necessary for a representative to represent a client.

The department then argued that it did not need to register the application or issue a denial notice as [REDACTED] did not file the application with the authorization to represent. Under BAM 105, such is not necessary as the department is required to still register the application and issue a DHS-723 and a DHS-330. Neither of these forms was issued as declared under BAM 110, and thus, the department's action in failing to act on this request is reversed.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department failed to properly process claimant's request for MA as filed on 9/29/08.

Accordingly, the department's actions in this case are REVERSED.

The department is ORDERED to register the 9/29/08 Medicaid application on behalf of claimant. The department is ORDERED to follow its policy in BAM 110 with regards to issuing a DHS-723 and a DHS-330, if necessary, and/or any other applicable policy and procedure. The department is ORDERED to process this case in accordance with its usual policy and procedure.

Should claimant or claimant's representative disagree with the department's actions, claimant and/or the representative shall have a right to a hearing for 90 days from the date of notice.

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

Date Signed: December 23, 2009

Date Mailed: December 23, 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:

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