

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.: 2009-22495

Issue No.: 2007

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

April 5, 2010

Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on April 5, 2010. The Claimant was represented by her husband and her attorneys, [REDACTED] and [REDACTED].

ISSUE

Did the Department properly deny the claimant's Medical Assistance (MA) and retroactive Medical Assistance?

FINDINGS OF FACT

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

1. On July 9, 2008, the claimant, through her attorney, applied for MA and retroactive MA. (Claimant's exhibit 1).
2. On November 26 2008, the claimant's attorney filed for MA and retroactive MA a second time after the department failed to meet its standard of promptness.

3. On October 22, 2008, the department sent the claimant a verification checklist, due November 3, 2008, requesting various information. (Department exhibit 1).
4. On November 6, 2008, the department denied the applications for failure to provide verifications. (Department exhibit 2).
5. On March 18, 2009, the Claimant filed a request for a hearing.

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 (formerly known as the Family Independence Agency) 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).

In the instant case, the claimant's original application of July 9, 2008, was not acted upon in a timely fashion.

Attorney Clark Andrews testified that he contacted the department when he delivered the application to the department and again on August 19, 2008, about action on the application and requested the department's assistance.

Obtaining Verification

All Programs

...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. (PAM 130, pp. 2-3).

I find the claimant's attorney's testimony credible and that the department did not assist the claimant contrary to the policy cited above. Therefore, the department was in error if it denied the claimant's MA and retroactive MA application of July 9, 2008.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the department to reregister the claimant's MA and retroactive MA applications back to the original application date of July 9, 2008.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 6/11/2010

Date Mailed: 6/11/2010

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.

MJB/jlg

cc:

