

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: 2009-25645
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 9, 2010
Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 March 9, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's Medical Assistance (MA) application in February, 2009 for failure to return the required medical records?

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 December 3, 2008, the claimant applied for MA-P.
2. On December 12, 2008, the department mailed a letter to [REDACTED], requesting his office to provide all medical records since May 1, 2008. The information was requested by December 29, 2008. (Department Exhibit 1).

3. This letter was returned by the post office because the PO Box had been closed. (Department Exhibit 1).

4. Another copy of the letter was sent to the physical address of the doctor's office on January 12, 2009, requesting the medical records be returned by January 30, 2009. This letter was not returned to sender. (Department Exhibit 2).

5. On February 2, 2009, the claimant was mailed an Application Eligibility Notice (DHS-1150) that indicated her application for MA was denied because no new medical information had been submitted and the Medical Review Team (MRT) had already denied her application from the previous medical records. (Department Exhibit 3).

6. The claimant submitted a hearing request on March 20, 2009.

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 policy states:

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.

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.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. PAM, Item 105, p. 9. Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. PAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

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. PAM, Item 130, p. 4.

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. PAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. PAM, Item 130, p. 4.

In this case, the claimant requested a hearing because her MA-P application was denied for failure to provide new medical documentation. The claimant applied for MA-P on December 3, 2008. On December 12, 2008, the department mailed the claimant's physician, [REDACTED], a request for medical records for the claimant from May 1, 2008 forward. The letter was returned to sender because the PO Box had been closed. The department then mailed the letter to the physician's physical address on January 12, 2009. The department testified that the letter was not returned to the department. When the medical records were not received, the department denied the claimant's application on February 2, 2009.

Department policy indicates that claimants must cooperate with the local office in determining initial and ongoing eligibility, which includes completion of the necessary forms. PAM 105. However, in this case, the claimant was not mailed any verification checklist form. The department mailed the medical record request directly to the physician's office. The department worker testified that she followed up with the doctor's office by telephone and the office staff stated that they could not locate the claimant's medical records. However, the

department can not find some of the claimant's file and could produce no documentation of this telephone call. Further, if the physician's office indicated they needed some time to locate the medical records, it would appear appropriate to grant an extension of time to allow the physician's office to provide the documents.

The claimant should not be held responsible for the physician's failure to provide the medical records. The claimant was not given any verification checklist and was not responsible for obtaining the medical records, as the department directly contacted the physician's office.

Therefore, the department should re-process the claimant's MA-P application from December 3, 2008. The department should obtain the medical records from May 1, 2008 through December 3, 2008 and submit the records to the MRT for a determination of the claimant's eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly denied the claimant's MA application in February, 2009 for failure to submit any additional medical records.

Accordingly, the department's actions are REVERSED. The department shall:

1. Re-process the claimant's MA-P application from December 3, 2008.
2. Obtain medical records from May 1, 2008 through December 3, 2008 to submit to MRT for a determination of the claimant's eligibility.
3. Mail the claimant a decision notice once eligibility is determined.

SO ORDERED.

/s/


Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 5, 2010

Date Mailed: April 6, 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.

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