

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.: 2009-28223
Issue No.: 2011
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 5, 2010
Wayne County DHS (41)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 10, 2010. [REDACTED] and [REDACTED] appeared and testified on behalf of [REDACTED], a hearing representative for Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether a filing form submitted on behalf of Claimant was properly submitted to DHS and whether DHS properly followed their procedures if the form was filed?

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 8/28/08, the authorized representative faxed a Filing Form to DHS on behalf of Claimant.

2. DHS failed to respond to the Filing Form because they denied receiving it.
3. The authorized representative submitted a hearing request on 1/7/10 regarding closure of FAP.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

The authorized representative contends that they faxed a Filing Form to DHS on 8/28/08 on behalf of Claimant. DHS denied receiving the Filing Form. The authorized representative submitted a fax confirmation (Exhibit 9) dated 8/28/08 for five pages. The fax confirmation contained the correct fax number for DHS. The authorized representative also provided a cover letter (Exhibit 10) sent with the fax.

DHS raised issues indicating that no such fax was sent in the Hearing Summary. Exhibit 18. The Hearing Summary indicates that an informal request was made to the authorized representative for the five pages that were faxed but they failed to respond to the request. DHS

was unable to verify the conversation with supporting testimony. It is found that this conversation is hearsay and not a factor in this decision.

Another issue is that the authorized representative submitted multiple fax confirmations, one for the Filing Form of 8/28/08 and one for an Assistance Application signed 2/25/09. Exhibit 12. The fax confirmations contained completely different designs in transmission confirmation. The authorized representative testified that they use multiple fax machines and at some point between 8/28/08 and 2/25/09 they changed fax machines. Based on the presented evidence, it must be found that the authorized representative faxed a filing form on 8/28/08 on behalf of Claimant.

Claimant died on [REDACTED]; the Filing form was faxed on 8/28/08. BAM 110 reads for MA, “Application may be made for a deceased person.” It is not an issue whether an MA application could have been filed on behalf of Claimant. BAM 110 also allows Filing Forms to be faxed. It is also not an issue that the Filing Form was faxed.

Filing Forms are to be registered within one workday for all requested programs. BAM 110. DHS did not do this as they denied receiving the Filing Form. It is found that the authorized representative submitted a Filing Form on behalf of Claimant and that DHS failed to properly process the request.

There may be questions as to whether the 8/28/08 request for MA can be approved unless the authorized representative can submit verification of authorized representation as of 8/28/08. This decision will not address that possibility and is confined only to the issue of whether a Filing Form was submitted to DHS on 8/28/08.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that a Filing Form was submitted on behalf of Claimant on 8/28/08 and that DHS failed to register or process the request.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/13/2010

Date Mailed: 4/13/2010

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.

CG/jlg

cc:

