

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: 2009-33017
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 7, 2009
Mecosta County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on October 7, 2009. Claimant's daughter and Claimant's daughter's legal counsel, [REDACTED], appeared and testified.

ISSUE

Did the Department of Human Services properly deny Claimant's application for Medical Assistance (MA) based on a failure to provide required information?

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 January 20, 2009, Claimant's daughter's legal counsel submitted an application for Medical Assistance (MA) to the Department.
- (2) On June 23, 2009, the Department of Human Services sent a Verification Checklist (DHS Form 3503) to Claimant's daughter's legal counsel. The Checklist

requested asset information. The requested information was due back to the Department on July 2, 2009.

(3) On June 26, 2009, Claimant's daughter's legal counsel's law office received the Verification Checklist (DHS Form 3503).

(4) On July 7, 2009, the Department had not received any of the requested information or contact from Claimant's daughter's legal counsel's law office. Claimant's application was denied. Notice of the denial was sent directly to Claimant.

(5) On July 9, 2009, the Department received a telephone call from Claimant's daughter's legal counsel's law office requesting more time to provide the information.

(6) On July 17, 2009, Claimant's daughter's legal counsel's law office submitted a request for 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 (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 provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BAM 130 VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY

All Programs

Verification

means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. BEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see [Timeliness of Verifications](#) in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification.

The client must obtain required verification, but you must assist if they need and request help.

Timeliness of Verifications

CDC, FIP, FAP

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.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (e.g., fax, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

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.

In this case, Claimant's application was denied in accordance with Department of Human Services' policy before any contact was made requesting additional time to obtain the required information. That fact is not in dispute. Claimant's legal counsel seeks for the Department of Human Services to re-open the case and allow them time to submit the required information. In the request for hearing Claimant's daughter's legal counsel asserts the Verification Checklist (DHS Form 3503) arrived 6 days before the due date, in the height of vacation season and just before a major holiday weekend when her client was out of the area attempting to care for Claimant.

This request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940); *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542, 303 NW2d 35 (1981); *Delke v Scheuren*, 185 Mich App 326, 460 NW2d 324 (1990), and *Turner v Ford Motor Company*, unpublished opinion per curium of the Court of Appeals issued March 20, 2001 (Docket No. 223082).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly denied Claimant's application for Medical Assistance (MA) based on a failure to provide required information.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/


Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 4, 2009

Date Mailed: November 6, 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 receipt date of the rehearing decision.

GFH 

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