

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: 2009-34443
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 21, 2009
Newaygo 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 request for a hearing. After due notice, a telephone conference hearing was held on October 21, 2009.

ISSUE

Did claimant fail to comply with the verification request under general verification policy and procedure?

FINDINGS OF FACT

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

- (1) At all relevant times prior to the action herein, claimant was an MA deductible and an MA Part B Medicare Savings Program recipient with the Michigan DHS.
- (2) Claimant's case was reviewed in May of 2009. Pursuant thereto, the DHS issued a DHS-1010 for redetermination, requesting that claimant complete the enclosed forms and deliver them by 6/1/2009. Exhibit 2.4.

(3) Claimant did not deliver the forms by 6/1/2009.

(4) On 7/20/09, the DHS issued a notice of case action informing claimant that his Medicare Savings Program will close effective 8/1/2009; his Medicaid spend-down will close effective 8/1/2009. Exhibit 1.

(5) On 7/27/09, claimant filed a timely hearing request. The action took place.

(6) Claimant is 77 years old. Claimant cannot write or read fluently, lives alone, and doesn't understand why the department has not returned his calls.

(7) The department stipulated at the administrative hearing that it will make arrangements with claimant to have a department employee assist claimant with the paperwork in the future.

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).

General verification policy and procedure states in part:

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. PAM, Item 105, p. 1.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, Item 105, p. 5.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. 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.

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.

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.

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

ELIGIBILITY DECISIONS

Denials

All Programs

If the group is ineligible **or** refuses to cooperate in the application process, send a denial notice within the standard of promptness. PAM, Item 115, p. 15.

In the above-cited authority, policy anticipates that a denial is appropriate when an individual refuses to cooperate with the department's redetermination/review of eligibility request. See BAM Items 115 and 130. Policy further requires the DHS to assist individuals where necessary, and to show particular sensitivity to clients who are illiterate or not fluent in English. PAM Item 105.

In this case, credible and substantial evidence on the record indicates that claimant did not refuse to participate as anticipated by policy and procedure (See the Findings of Fact laid out herein). Moreover, claimant is a 77-year-old who cannot read or write fluently.

It is noted that the department stipulated at the administrative hearing that it would assist claimant in the future by having individuals from the department assist claimant with the paperwork. Claimant did not fail to cooperate as anticipated by policy and procedure and thus, this Administrative Law Judge finds cause to reverse the department on behalf of claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides claimant's action showed cause for failing to complete the redetermination/review process.

Accordingly, the department's closures are hereby REVERSED.

The department is ORDERED to reinstate claimant's Medicare Savings Part B and MA deductible cases, back to the date of closure--8/1/2009. The department shall issue any supplemental benefits to claimant to which he may be entitled. The department shall review this case in accordance with its usual policy and procedure, or within one year from the month of this Decision and Order.

As noted in the decision herein, the department stipulated and agreed to assist claimant in the future with completing any future requests for verification(s)/review.

/s/

Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 23, 2009

Date Mailed: October 26, 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:

[REDACTED]