

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: 2009-13285

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 27, 2009

Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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, an in-person hearing was held on August 27, 2009. Claimant is now deceased; however, she was represented by the attorney who was instrumental in filing the disputed application.

ISSUE

Did the department properly process claimant's October 31, 2008 long-term care Medicaid (MA) application?

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 September 29, 2008, claimant entered long-term care.
- (2) On October 31, 2008, an MA application was filed on claimant's behalf.

(3) On November 5, 2008, the department mailed a Verification Checklist (DHS-3503) to claimant's authorized representative (daughter), who promptly took it to her mother's attorney (Department Exhibit #1, pg 50).

(4) This checklist gave the attorney until November 24, 2008 to provide verification of various assets needed to determine claimant's long-term care MA asset eligibility.

(5) On that deadline date, the department received several of the sought after verifications with a cover letter request from claimant's attorney to notify him if anything had been missed so that he could have an extension of time to acquire it (Department Exhibit #1, pgs 48 and 49).

(6) Claimant's attorney heard absolutely nothing else from anyone from the department until he received a denial notice based on a purported failure to return all requested verifications.

(7) This denial notice is dated December 15, 2008, which was precisely 45 days into the department's 45 day standard of promptness for processing MA applications like claimant's application, according to PAM Item 115, pg 11.

(8) Claimant's application processing worker did not appear at the hearing and neither of the department's witnesses had any personal involvement in, or knowledge about this matter.

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).

The applicable departmental policy states:

AUTHORIZED REPRESENTATIVES

All Programs

An **Authorized Representative** (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (e.g., to obtain FAP benefits for the group.) An AR is not the same as an Authorized Hearing Representative (AHR) PAM, Item 110, p. 6.

The AR assumes all the responsibilities of a client. See PAM 105. PEM, Item 110, p. 7.

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.

LOCAL OFFICE RESPONSIBILITIES

All Programs

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees. PAM, Item 105, p. 8.

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.

Additionally, since June 1, 2008, the department's policy requires workers to allow up to three extensions for MA application processing if reasonable efforts are being made.

PAM Item 130, pg 4. Furthermore, the above-referenced policy directs the department to send a negative action notice only when: (1) the client indicates refusal to provide a verification; or (2) the time period given has elapsed and the client has not made a reasonable effort to provide it.

Neither of these events occurred in claimant's case. Claimant's authorized representative certainly never refused to provide the necessary verifications, and in fact, he made every reasonable effort to get the process completed by sending a written transmittal to the department on the deadline date asking for help/information about the specific instructions/assistance. At that point, it was incumbent upon the application processing worker to make a reasonable effort to provide claimant's authorized representative with the help asked for. The department's failure to act affirmatively resulted in the premature denial of claimant's disputed application. As such, that action cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in processing claimant's October 31, 2008 long-term care MA application.

Accordingly, the department's action is REVERSED, and this case is returned to the local office for application reinstatement and processing according to departmental policy. **SO**

ORDERED.

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 2, 2009

Date Mailed: September 2, 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 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.

MBM/db

cc:

