

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
c/o [REDACTED], P.O.A.
Claimant

Reg. No: 2009-15805
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 20, 2009
St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Kenneth P. Poirier

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 hearing was held on August 19, 2009. [REDACTED], the claimant's daughter who holds power of attorney for her mother, represented [REDACTED] at the hearing. [REDACTED] was assisted by four witnesses who were employees of the nursing home where the claimant lives: [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. The Department was represented by [REDACTED], a Department Family Independence Manager.

ISSUE

Did the Department properly deny the claimant's Medicaid application for failure to cooperate?

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 29, 2008, [REDACTED] submitted an application for assistance under the Medicaid program on behalf of her mother, the claimant in this matter.
- 2) The claimant has Alzheimer's disease, and based on this, the claimant executed a General Durable Power of Attorney on July 4, 2008, designating [REDACTED] as her attorney in fact, or agent, and designating [REDACTED] as substitute agent in the event of [REDACTED] inability or unwillingness to serve.
- 3) On December 30, 2008, the Department mailed to the claimant a verification checklist, requesting various pieces of information to assist in the processing of the claimant's Medicaid application, with a due date of January 9, 2009.
- 4) Among other things, the Department asked for the claimant's power-of-attorney paperwork, as well as funeral purchase materials.
- 5) The Department mailed the verification checklist to the claimant at her nursing home address, but did not mail the verification checklist to [REDACTED].
- 6) The Department did not receive the requested information by the due date, so it denied the claimant's Medicaid application, issuing a denial notice on January 26, 2009.
- 6) On the claimant's behalf, [REDACTED] submitted to the Department a request for a hearing, which the Department received on February 4, 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).

Claimants must cooperate with the local office in determining initial and ongoing eligibility to include completion of the necessary forms. PAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the claimant's verbal or written statements. PAM 130, p. 1. Claimants are allowed 10 calendar days (or other time limits specified in policy) to provide the requested verifications. PAM 130, p. 4. If the claimant cannot provide the verification for Medicaid purposes, despite a reasonable effort, the time limit should be extended up to three times. *Id.* Verifications are considered timely if received by the due date. *Id.* An authorized representative is a person who applies for assistance on behalf of the claimant and/or otherwise acts on his behalf. PAM 110, p.7. The authorized representative assumes all the responsibilities of a client. *Id.*

In the record presented, since [REDACTED] submitted the application on the claimant's behalf, the Department sought verification of [REDACTED] authority to do so. The Department tried to obtain this verification by requesting copies of the claimant's power-of-attorney documents.

The Medicaid application that [REDACTED] submitted for the claimant included [REDACTED], in a section which specifically requests the address of a person signing the application on behalf of someone else. The Department thus had notice that [REDACTED] was acting on behalf of the claimant. Policy, as cited above, necessitates that notice must be sent to the authorized representative, since the authorized representative "assumes all responsibilities of a client." [REDACTED] indicated at the hearing that she never received the verification checklist. The Department representative indicated at the hearing that the Department did not send the checklist to [REDACTED], because the Department had no proof that [REDACTED] was functioning as the claimant's authorized representative. By failing to send the checklist to [REDACTED],

however, the Department effectively precluded itself from obtaining the information that it was seeking related to the claimant's application.

Since [REDACTED] did not receive the verification checklist, it cannot be concluded that the claimant failed to cooperate in providing a requested verification. [REDACTED], the claimant's representative, had no knowledge that the verifications were requested. Accordingly, the Department's Medicaid denial is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's denial of the claimant's Medicaid application is not upheld.

Accordingly, it is ORDERED:

1. The Department's denial of the Medicaid application is REVERSED.
2. The Department shall re-open and process the Claimant's December 29, 2008 Medicaid application in accordance with Department policy.
3. The Department shall supplement the Claimant for any lost benefits she was otherwise eligible and qualified to receive in accordance with Department policy.

/s/
Kenneth P. Poirier
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/01/09

Date Mailed: 09/01/09

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.

KPP/jlg

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