

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: 2009-16964  
Issue No: 2006  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
November 12, 2009  
Genesee 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 three-way telephone hearing was held on November 12, 2009 with claimant's representative, the county, and the Administrative Law Judge. Claimant did not appear.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's 8/13/08 Medical Assistance (MA-P) and retro 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 8/13/08, claimant applied for MA-P with the Michigan DHS. Claimant applied for three months of retro MA. Claimant was represented by [REDACTED] [hereinafter, claimant] at the time of the application.

(2) After repeated requests by [REDACTED], the department issued its first Verification Checklist (DHS-3503) on 1/12/2009. The verifications were due on 1/20/09.

(3) The department had no explanation as to why it failed to give claimant a standard ten days to return the requested verifications.

(4) On 1/20/09, [REDACTED] requested an extension. [REDACTED] presented evidence of the verification from a fax. See Exhibit 1. The department had indicated it was unaware of the request.

(5) [REDACTED] credibly testified that pursuant to a conversation with the worker following the request for an extension, the worker indicated that the request did not reach her desk until after the due date.

(6) The department was unable to provide any evidence of ever having issued a denial notice to claimant and/or claimant's representative.

(7) On 2/5/09, claimant requested a 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).

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.

### **Responsibility to Report Changes**

#### **All Programs**

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. PAM, Item 105, p. 7.

### **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.

## **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. PEM 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. PAM, Item 130, p. 1.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

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

In this case, the department indicated that the file has changed a number of different hands due to numerous applications for different programs. Be that as it may, at the administrative hearing, the department was unable to meet its burden of proof in presenting evidence of having properly processed this case. First, there was the huge lapse in time from the date of application in August, 2008 until the department issued the verification checklist on January 12, 2009. The department did not give claimant even a ten-day turnaround time to return the verifications. Claimant's representative timely requested an extension on the 8<sup>th</sup> day. Claimant's representative produced evidence of a fax which verified the extension request. The department did not respond to the extension request. Nor did the department have any evidence of ever having issued a denial notice in this case. The information on the hearing summary indicated a different program for which claimant applied for, and a denial notice which the department was unable to produce. As the department failed to follow its verification policy and procedure in this case with regards to record extensions and not denying this case unless claimant showed a clear failure to produce the information, the department's actions are reversed. PAM Items 105, 130.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were incorrect.

Accordingly, the department's denial is hereby REVERSED.

The department is ORDERED to reinstate claimant's 8/13/08 MA application, including the three months of retro MA. The department shall follow its usual policy and procedure with

regards to issuing a verification checklist as to any outstanding verification(s) to process the application. The department shall extend the record, if requested by [REDACTED] in accordance with the DHS usual policy and procedure. The department shall issue notice to claimant's representative and may also issue notice to claimant regarding the outcome of reprocessing this case.

Claimant's representative shall retain a right to a hearing for 90 days from the date of the new notice should the representative dispute the outcome of the new determination.

/s/ \_\_\_\_\_  
Janice Spodarek  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: November 17, 2009

Date Mailed: November 17, 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]