

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: 2009-1992

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 25, 2009

Wayne 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 June 25, 2009. Claimant was represented at the administrative hearing by

[REDACTED]

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's 11/27/07 Medical Assistance (MA-P) application on the grounds that claimant did not comply with the department's verification request?

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 11/27/07, claimant applied for MA.

(2) [REDACTED] was on claimant's application as a representative.

(3) The department's evidentiary packet was incomplete. The department did not have the application at the administrative hearing. The individual who had personal knowledge of this case was not present at the administrative hearing for testimony and/or cross-examination.

(4) Contained in the file is a Verification Checklist, dated 5/12/2008, with a due date of 5/22/2008. The 5/22/2008 due date is crossed off with a 6/1/2008 date crossed off, with a 6/11/2008 date crossed off, with a date identified as "16th." Exhibit B5.

(5) On 6/11/2008, the DHS issued a Denial Notice to claimant stating that the MA was denied for the following reason: "Customer failed to return verification by all three due dates requested."

(6) The department had no evidence that the DHS sent a copy of the denial notice to [REDACTED] filed a timely hearing request. [REDACTED] had actual notice. The denial notice was dated 6/11/2008; [REDACTED] hearing request was dated 8/15/2008.

(7) [REDACTED] submitted a confirmed fax verification, dated 6/11/2008, informing the department that enclosed were all requested verifications and if not, to please grant an extension. The department stipulated that there was no copy of the fax in the file and no extension granted.

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).

Applicable 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.

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 this case, the department denied claimant's MA application for failure to provide verification. Under general evidentiary rules, the department has the burden of proof. See PAM 600; DHS Administrative Hearings Handbook.

In this case, the department did not have the 1171 at the administrative hearing. There was no individual who was present at the administrative hearing who had personal knowledge of this case and/or who could testify or be cross-examined. The department further stipulated that it did not have in its record a copy of the confirmed fax submitted by [REDACTED] informing the department on the 6/11/2008 due date of the necessary verifications. The fax also indicated that if the verifications were incomplete, then [REDACTED] was requesting a further extension in order to deliver any outstanding verifications. The department failed to respond to the confirmed fax.

It is noted also that the department stipulated that the representative can request an extension on the deadline date pursuant to DHS policy and procedure.

After careful review of the substantial and credible evidence on the whole record, this Administrative Law Judge finds that claimant did not fail to comply with the verification request. First, the representative stands in the shoes of the client pursuant to PAM Item 105; PEM Item 110. The department is required to communicate with the representative.

The department has the burden of proof to go forward at the administrative hearing. The department is required to bring forth sufficient evidence and policy to support its action in the case and the policy supporting the action taken. The department in this case did not do so. The department failed to meet its burden of proof.

Under general verification policy and procedure, the department can only deny an application where there is evidence that a group refused to cooperate with the application process. See PAM Item 115, p. 15. In this case, [REDACTED] clearly indicated it believed that all the verifications were delivered and if not, requested an extension. The department failed to respond to this request.

For these reasons, and for the reasons stated above, the department's actions are reversed.

DECISION AND ORDER

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

Accordingly, the department's denial is hereby REVERSED.

The department is ORDERED to reinstate claimant's 11/27/07 application for MA. If there are any outstanding verifications, the department is ORDERED to issue a Verification Checklist in accordance with its usual policy and procedure and process this case in accordance with its usual policy and procedure. The department is ORDERED to issue a disposition notice

to claimant as to the outcome of the new processing. Claimant shall retain a right to a hearing for 90 days from the date of the new notice. The department is ORDERED to communicate with claimant's representative.

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

Date Signed: June 26, 2009

Date Mailed: June 29, 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]