

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: 2009-20646

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 14, 2009

Shiawassee 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 representative's request for a hearing. After due notice, a three-way telephone hearing was held on October 14, 2009. Claimant did not appear. Claimant was represented at the administrative hearing by [REDACTED]

ISSUE

Did the Department of Human Services (DHS) properly process claimant's 11/21/08 Medical Assistance (MA-P) application including the 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 11/21/08, L & S applied for MA on behalf of claimant and claimant's family with retro eligibility being requested back to August, 2008.

(2) On 12/11/08, the DHS issued a verification checklist. Under the income records, the department requested "pay check stubs for 8/1/08 to present." The department did not check off the box requesting "military allotment."

(3) The department did not submit the verification checklist in the evidentiary packet and it was not available for examination at the administrative hearing.

(4) The department denied in part for failure of claimant to submit income regarding "military allotment."

(5) On 1/5/09, the department issued a DHS-4400. The department failed to include the 4400 in the evidentiary packet. There is no evidence that the department forwarded a copy of the 4400 to claimant's representative. The department notice indicated that that claimant did not qualify for active Medicaid because income exceeded the limit.

(6) The department placed claimant on a deductible beginning with the month of application at \$155 per month. The DHS did not issue a notice regarding retro MA eligibility.

(7) On 3/6/09, claimant's representative requested a hearing.

(8) Claimant's children were open, Healthy Kids. The parties stipulated at the administrative hearing that there is no issue herein regarding the children.

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.

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, much of the discussion at the administrative hearing centered on whether the department did and/or needed to specifically request verification of claimant's military allotment. Claimant's representative argued that he was unaware that the department needed this verification but sent into the department all necessary verification as requested on the verification checklist. The department argued that the verification checklist did in fact request "pay check stubs" and that the section which is checked off "pay check stubs" should include a military allotment. The department failed to include the verification checklist for review at the evidentiary hearing. The department was instructed to forward the checklist to the parties after the administrative hearing as it was in existence in the department's file. Upon review, the section in the verification checklist called "income records" does in fact request the pay check stubs. There is no dispute

herein regarding that. However, there is a separate line with a box entitled “military allotment.” This box was not checked off.

Under general verification policy and procedure, the department is expected and required to clearly indicate to applicants what is necessary and when it is due. This Administrative Law Judge finds the argument that an individual should assume that if a section entitled “pay check stubs” is checked off that it should include all sources of income, including those on the checklist not checked off. This Administrative Law Judge does not find the department’s argument persuasive. In fact, the department’s argument is nonsensical.

Moreover, claimant’s representative presented evidence that there was correspondence to the department prior to denial on 12/31/08, requesting an extension until 1/10/09. On 1/9/09, █████ sent correspondence to the department indicating that they believed that the verifications were complete. As already noted, the department denied on 1/5/09.

The undersigned Administrative Law Judge has reviewed the credible and substantial evidence on the whole record and finds that the department did not follow its verification policy and procedure. See BAM Items 105, 130, p. 2. Thus, the department’s actions are reversed. The DHS failed to follow its policy and procedure in clearly indicating to the applicant what was necessary and when it was due.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department’s actions are REVERSED.

Accordingly, the department is ORDERED to reinstate claimant’s November, 2008 MA application. The department is instructed to issue a verification checklist requesting military allotment income and indicate what dates are outstanding in order to reprocess the application and its three retro months. The department shall give claimant 10 days from the date of the

verification checklist to submit the military allotment verification(s). Upon receipt, the department shall reprocess the November, 2008 MA application, including retro months. The department shall issue notice to claimant informing claimant as to the new eligibility status of claimant's MA case and retro months. Claimant's representative shall retain a right to a hearing for 90 days from the date of new notice, should he dispute the outcome of the reprocessing of the case.

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

Date Signed: October 22, 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:

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