

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: 2009-20785

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 17, 2009

Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 telephone hearing was held on November 17, 2009. Claimant was represented by [REDACTED]

ISSUE

Whether the Department of Human Services (department) properly determined claimant's eligibility for Medical Assistance (MA).

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 19, 2008, the department received claimant's application to be added to an already active MA case. A retroactive MA application was included.

(2) December 23, 2008, the department sent claimant a Verification Checklist (DHS-3503) indicating required proofs and setting a due date of January 7, 2009. Department Exhibit A, pg 3. Proofs were not provided.

(3) February 4, 2009, the department terminated claimant's MA.

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).

Department manuals provide the following instructions for caseworkers:

Allow the client 10 days (or other time limits specified in policy) to provide the verification you request. If the client cannot provide the verifications despite a reasonable effort, extend the time limit at least once.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (e.g., facts, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, or

The time period given has elapsed.

BAM 130 42 CFR 435.913(a); 42 CFR 435.916(b); MCL 400.37;
Public Law 109-171

In this case, the department appropriately sent claimant a Verification Checklist stating required proofs and setting an appropriate deadline. However, claimant's representative testified under oath that the department did not send claimant's representative a copy of the checklist and so prevented claimant's representative from performing its duties. At hearing, the department did not refute claimant's representative's testimony. Accordingly, a preponderance of the evidence establishes that the department did not send claimant's representative a copy of the Verification Checklist. Accordingly, the department has not met its burden of proof and its action cannot be upheld. Finding of Fact 1-3.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services did not properly determine claimant's eligibility for Medical Assistance.

Accordingly, the department's action is, hereby, REVERSED. The department is to initiate a determination of claimant's financial and non-financial eligibility for MA including providing claimant's representative with proper notices in compliance with this decision and order and department policy.

/s/ _____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 2, 2009

Date Mailed: December 8, 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.

JAB/db

cc:

