

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: 2009-21552

Issue No: 2012

Case No:

[REDACTED]

Load No:

Hearing Date:

July 22, 2009

Jackson 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 telephone conference hearing was scheduled pursuant to a Reconsideration Decision issued by Administrative Law Judge Martin D. Snider on 11/24/08. Claimant was represented at the administrative hearing by

[REDACTED]

ISSUE

Did the Department of Human Services (DHS) properly carry out the order of Martin D. Snider in his 11/24/08 Reconsideration Decision?

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 8/31/07, [REDACTED] applied for Medical Assistance for deceased claimant (deceased on July 26, 2007).

(2) On 9/19/07, DHS denied on the basis that claimant had passed away before the application was filed.

(3) ██████ appealed the denial and an administrative hearing was held on 7/16/2008 by Administrative Law Judge Sundquist, Register Number 2008-11945. Judge Sundquist upheld the denial.

(4) ██████ appealed Judge Sundquist's decision.

(5) On 11/24/08, Administrative Law Judge Snider reversed Judge Sundquist's decision and ordered the department to hold an administrative hearing on the denial of claimant's MA application.

(6) On 6/26/09, SOAHR incorrectly scheduled a "rehearing" assigning the case to the undersigned Administrative Law Judge, J. Spodarek. At the evidentiary hearing on 7/22/09 (the instant case), the facts indicate that the department never processed an MRT MA application. . The DHS denied on the grounds that claimant was deceased prior to the filing of the application.

(7) Claimant's representative has not been given an opportunity to submit necessary medical documentation and the case has not been reviewed by MRT.

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).

This case has a long procedural history laid out in the Findings of Fact. Based on the facts in Judge Sundquist's and Judge Snider's decision, this Administrative Law Judge does not find that either judge was aware that the case was never processed or sent to MRT. The case was

denied on procedural grounds. Thus, the department could not carry out Judge Snider's order as stated in his Reconsideration Decision of 11/24/08. Moreover, at the 7/22/09 hearing, the department was confused as to the order and wanted to argue the substantive issues already decided on by Administrative Law Judge Snider.

The department is ordered to reinstate the August 31, 2007 MA application on behalf of deceased claimant and to process this case as an MA-P case in accordance with its usual policy and procedure. The department shall issue any necessary verification checklist(s) and give claimant's representative an opportunity to submit any necessary verifications in accordance with its usual policy and procedure. The department shall issue a notice regarding the outcome of the decision. Claimant shall retain a right to a hearing for 90 days from the date of the new notice should claimant and/or claimant's representative dispute the outcome. The department is ordered to communicate with claimant's representative.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not correctly processed claimant's August 31, 2007 Medicaid application on behalf of claimant.

Accordingly, the department's failure to do so is hereby REVERSED.

It is ORDERED that the department carry out Administrative Law Judge Martin D. Snider's 11/24/08 Reconsideration Decision (2008-32127) by processing an MA-P/MRT application. The department is ORDERED to reinstate the 8/31/07 MA application, including any retro application if applicable. The DHS is further ORDERED to follow its usual policy and procedure by giving claimant a verification checklist requesting any necessary medical documents and following its usual policy and procedure with regards to processing the same, including forwarding the case to MRT for a medical review. The department shall issue written

notice to claimant's representative informing claimant's representative of the outcome of the determination.

Claimant's representative shall retain a right to a hearing for 90 days from the date of notice should claimant's representative dispute the outcome. Should claimant's representative request an administrative hearing based upon an adverse decision, claimant's representative will be required to show proper personal jurisdiction to proceed.

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

Date Signed: August 13, 2009

Date Mailed: August 14, 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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