

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: 2009-30150

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 29, 2009

St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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, an in-person hearing was held on September 29, 2009. Claimant personally appeared and testified. He was assisted by [REDACTED]

ISSUE

Did the department properly deny claimant's February 13, 2009 Medicaid (MA)/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) Claimant was hospitalized for three days in November 2008 (11/3/08-11/5/08).
- (2) On February 13, 2009, claimant's authorized representative (a 3rd party liability specialist) filed a disability-based MA/retro-MA application on claimant's behalf.

(3) In response, the department mailed a Verification Checklist (DHS-3503) to claimant and to his authorized representative requesting specific information necessary for application processing (Department Exhibit #2).

(4) When the state deadline (3/8/09) for return of this information passed without any response from claimant or his authorized representative, the department sent denial notices to both of them at their respective address-of-record (Department Exhibit #1 and #3).

(5) On April 28, 2009, the department received a hearing request from claimant's authorized representative.

(6) On September 29, 2009, claimant's hearing was held.

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).

The applicable departmental policy states:

AUTHORIZED REPRESENTATIVES

All Programs

An **Authorized Representative** (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (e.g., to obtain FAP benefits for the group.) An AR is not the same as an Authorized Hearing Representative (AHR) PAM, Item 110, p. 6.

The AR assumes all the responsibilities of a client. See PAM 105. PEM, Item 110, p. 7.

At application and redetermination:

- . Thoroughly review all eligibility factors in the case.

Applications and redeterminations must be completed within the standards of promptness. See PAM 115, 210. PAM, Item 105, p. 11.

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.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot

provide the verification despite a reasonable effort, extend the time limit at least once. PAM, Item 130, p. 4.

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.

The department's witness provided competent, credible documentary evidence and testimony to establish all of the required written correspondence was mailed to claimant's authorized representative. The department's witness also is the supervisory worker assigned to this case. He stated under oath at hearing he requires all his application processing workers to make notations on the file copies of any correspondence sent to authorized representatives during application processing. This was specifically done in claimant's case (See Department Exhibit #1 and #2).

By contrast, the authorized representative at hearing had absolutely no involvement in, or personal knowledge of what actually was/was not received. He stated simply his office has a good record-keeping system and nothing was showing up in their files about this case; therefore, he requested I assume non-receipt had occurred. Unfortunately, the authorized representative presented absolutely no competent evidence to refute the department's prima facie case.

Additionally, the [REDACTED] representative acknowledged no business office "system" is 100% infallible. In short, based on the weight and credibility of the evidence submitted at hearing, this Administrative Law Judge finds the department sent all required correspondence to [REDACTED].

Consequently, no basis exists in fact, law or policy to reverse the department's application denial.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's February 13, 2009 MA/retro-MA application.

Accordingly, the department's action is AFFIRMED.

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 8, 2009

Date Mailed: October 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.

MBM/db

cc:

