

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: 2009-31811
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 30, 2010
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Tuesday, March 30, 2010. The claimant was not present but was represented by his authorized representative, [REDACTED]

ISSUE

Did the department properly deny the claimant's Medical Assistance (MA) application based upon the fact that claimant or his authorized representative did not provide the required verification?

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 January 29, 2009, [REDACTED] applied for MA on behalf of the claimant with retroactive MA to December 2008. The application was not signed by the claimant, but only by an [REDACTED]'s representative and no authorization to act on behalf of the claimant was received with the case.

(2) On March 19, 2009, the department caseworker sent a Verification Checklist to the claimant and [REDACTED] to provide the required verification to determine MA eligibility and for a release signed by the claimant for [REDACTED] to act as his authorized representative. (Department Exhibit 3-5)

(3) On March 27, 2009, the department received a fax from [REDACTED] requesting additional time and asking for a due date of April 8, 2009. (Claimant Exhibit 1)

(4) On April 9, 2009, the department caseworker denied the claimant's MA application and sent the claimant and [REDACTED] a notification. (Department Exhibit 2)

(5) On July 7, 2009, the department received a hearing request from the claimant, contesting the department's negative action.

(6) During the hearing, the [REDACTED] authorized representative stated that the authorization to represent was submitted with the application.

(7) During the hearing, the department caseworker stated that the authorization to represent was not submitted with the application and was the reason why she requested it again on the Verification Checklist that was sent March 19, 2009.

(8) During the hearing, the authorized representative from [REDACTED] submitted a fax dated April 7, 2009 requesting additional time with a new due date of April 18, 2009. (Claimant Exhibit 2-3)

(9) During the hearing, the authorized representative from [REDACTED] submitted an authorization for release and representation form signed by the claimant dated January 3, 2009 with the Michigan Department of Human Services stamp dated January 29, 2009 lobby stamp. (Department Exhibit 9)

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 department's program eligibility manuals provide the following relevant policy statements and instructions for caseworkers:

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.

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Client Cooperation

The client is responsible for providing evidence needed to prove disability or blindness. However, you must assist the client when they need your help to obtain it. Such help includes the following:

- . Scheduling medical exam appointments
- . Paying for medical evidence and medical transportation
- . See PAM 815 and 825 for details. PEM, Item 260, p. 4.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

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.

LOCAL OFFICE RESPONSIBILITIES

All Programs

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees. PAM, Item 105, p. 8.

In the instant case, [REDACTED], filed an application for MA the claimant with retroactive MA to December 2008. The department caseworker testified that when she got the application that the authorization to represent form was not attached to it, which resulted in her requesting the information again on the Verification Checklist dated March 19, 2009. However, at the hearing the authorized representative from [REDACTED], submitted a signed authorization to represent signed by the claimant on January 9, 2009 and date stamped with the department stamp dated January 29, 2009.

In addition, the department caseworker stated that she did receive the first request for an extension dated March 27, 2009, but there was no further communication from [REDACTED]. The authorized representative at the hearing submitted a fax confirmation dated April 7, 2009 requesting additional time to April 18, 2009. The department caseworker stated that she did not receive the April 7, 2009 fax. However, the authorized representative from [REDACTED], has a copy of the fax and the fax confirmation.

In the present case, the department has not established by the necessary, competent, material, and substantial evidence that it was acting in compliance with department policy when it denied the claimant's January 29, 2009 MA application with retroactive benefits to December 2008.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department was not acting in compliance with department policy when it denied the claimant's January 29, 2009 MA application with retroactive benefits to December 2008.

Accordingly, the department's decision is **REVERSED** and the department is ordered to reprocess the claimant's January 29, 2009 application with retroactive benefits to December 2008.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 13, 2010

Date Mailed: May 14, 2010

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 receipt date of the rehearing decision.

GCF/vc

cc:

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