

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: 2009-33052
Issue No: 2006; 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 16, 2010
Marquette County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 March 16, 2010 in Marquette. Claimant did not appear. Claimant was represented by [REDACTED].

The department was represented by Annette Emblad (FIM) and Cheryl Deverney, (office manager).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUE

Did the person who signed the February 27, Fed Ex delivery receipt have apparent authority to accept claimant's MA-P application for filing?

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 February 25, 2009, [REDACTED] mailed claimant's MA-P application, via [REDACTED], to Marquette County DHS.

(2) On February 27, 2009, claimant's application was delivered to a Marquette County employee, [REDACTED]. [REDACTED] signed a Fed Ex receipt on February 27, 2009.

(3) [REDACTED] was not an employee of the Marquette County Department of Human Services on the date he signed the receipt.

(4) When [REDACTED] signed the [REDACTED] delivery receipt, he had apparent authority to receive claimant's application on behalf of Marquette County DHS.

(5) The [REDACTED] delivery to [REDACTED] occurred at the [REDACTED] [REDACTED] at 3:23 p.m. on a Friday.

(6) On March 2, 2009 (a Monday) the Marquette County mailroom delivered claimant's application to the DHS mailroom, also in the [REDACTED] building.

(7) Since the DHS mailroom received claimant's application on March 2, 2009, DHS stamped claimant's application with a receipt date of March 2, 2009.

(8) Since claimant's MA-P application was received by a person at the [REDACTED] building, with apparent authority to receive DHS shipments via [REDACTED] [REDACTED] wants the department to use the [REDACTED] receipt date (February 27, 2009) as the official application date for claimant's MA-P application.

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).

Current manual policy regarding verification of eligibility factors may be summarized as follows:

DEPARTMENT POLICY:

All Programs

The local office must do all of the following:

- . Determine eligibility;
- . Calculate the level of benefits;
- . Protect consumer rights. PAM Item 105, page 1.

AUTHORIZED REPRESENTATIVE RESPONSIBILITY

* * *

CLIENT COOPERATION

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

* * *

See BAM 115 and 825 for details. Also BEM, Item 260, page 4.

Under current manual policy, MA-P applicants must file a completed application with the department in order to initiate the eligibility determination process. BAM 105, page 3.

The sworn testimony of the parties at the hearing establishes that [REDACTED], who is not officially a DHS employee, had apparent authority to receive claimant's MA-P application on February 27, 2009 on behalf of the department.

Since [REDACTED] had apparent authority to receive the [REDACTED] shipment, the department must use the [REDACTED] receipt to determine the date of application.

The preponderance of the evidence in the record shows that claimant did submit her application on February 27, 2009 via [REDACTED].

Therefore, the department incorrectly used March 2, 2009 as her application date.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly used March 2, 2009 as claimant's MA application date.

The correct application date for claimant's MA-P application is February 27, 2009.

Accordingly, the department's decision to use March 2, 2009 as the claimant's MA-P application date is, hereby, REVERSED.

The department shall recalculate claimant's MA-P eligibility based on an application date of February 27, 2009.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 18, 2010

Date Mailed: May 19, 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 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.

JWS/tg

cc:

