

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: 2009-34422
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 23, 2010
Tuscola 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, a telephone hearing was held on February 23, 2010. Claimant did not appear at the hearing; however, she was assisted by [REDACTED]

ISSUE

Did the department properly deny claimant's March 23, 2009 Medicaid (MA/retro-MA) application for untimely cooperation in submitting requested verifications?

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 March 23, 2009, the department received and registered claimant's MA/retro-MA application, submitted by her authorized representative [REDACTED]. (Department Exhibit #1, pg 33).

(2) The original due date the department set for a return of certain verifications necessary for application processing was April 7, 2009.

(3) Claimant's authorized representative timely requested three extensions to obtain these verifications.

(4) The department's witness stipulated on the record at hearing the three timely requested extension dates were: (1) April 17, 2009; (2) April 27, 2009; and (3) May 7, 2009.

(5) Prior to expiration of the third granted extension date, specifically, on April 29, 2009, the department mailed an Application Eligibility Notice (DHS-1150) to claimant and her authorized representative which denied the disputed application stating, "Verifications Not Returned"(Department Exhibit #1, pg 34).

(6) On July 27, 2009, claimant's authorized representative filed a timely hearing request to protest the department's allegedly premature denial of claimant's disputed MA/retro-MA 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).

The applicable departmental policy states:

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, Item 105, p. 8.

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) BAM, Item 110, p. 6.

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

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. BEM 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. BAM, 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.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. PAM, Item 130, p. 2.

MA and AMP

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. Refer to above policy for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, 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 case action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed (BAM Item 130, pg 5).

The facts of record in this case are clear and undisputed, as is the applicable departmental policy cited above.

BAM Item 130, pg 5, specifically requires three extensions of verification deadlines in MA application processing cases, and also, this policy explicitly states a notice of case action can only be sent when the time period given has elapsed.

The department's witness testified credibly at hearing the department agreed to three extensions for claimant's authorized representative to submit requested verifications, the last extension being May 7, 2009.

However, before that extension deadline expired, specifically, on April 29, 2009, the department erroneously issued a premature application denial notice (Department Exhibit #1, pg 34). As such, the department's procedural error is inconsistent with policy and it cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erroneously denied claimant's March 23, 2009 MA/retro-MA application on the stated grounds.

Accordingly, this case is returned to the local office for application reinstatement and processing in accordance with departmental rules. **SO ORDERED.**

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

Date Signed: March 18, 2010

Date Mailed: March 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.

2009-34422/mbm

MBM/db

cc:

