

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.: 2009-36619  
Issue No.: 2006  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
January 20, 2010  
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on January 20, 2010. The Claimant was represented by his Authorized Representative (AR) [REDACTED].

ISSUE

Did the Department properly deny the claimant's Medical Assistance (MA) and retroactive MA?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. On November 7, 2008, the claimant through his AR applied for MA and retroactive MA.
2. The department claims to have sent on May 15, 2009, via facsimile, a verification checklist that also set an appointment for an in-person interview for May 26, 2009.

(Department exhibit 1)

3. On May 27, 2009, the department notified the claimant that he was denied because he did not attend the May 26, 2009, interview.
5. On July 23, 2009, the Claimant, through his AR, filed a request for a hearing.

#### 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 (formerly known as the Family Independence Agency) 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).

In the instant case, the Department states that it notified the claimant and his AR to attend an in-person interview on May 26, 2009. It provides a copy of a facsimile cover sheet with a May 15, 2009, as evidence. However, the department provided a transmission verification report on two other facsimile messages sent on May 27, 2009, and June 10, 2009, to the claimant's AR but was unable to produce a similar verification report for the May 15, 2009, transmission.

This ALJ finds that the department's inability to produce evidence of the actual transmission of the May 15, 2009, documents while providing same for two other transmissions to not be credible.

#### **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....

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. (PAM 130, p. 2-3)

Here, the requested verifications/interview was never provided to the claimant's AR. I find that the department did not provide the notice of the interview upon which the department based its denial of the claimant's MA applications.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, **REVERSES AND ORDERS** the Department to reregister the Claimant's MA and retroactive MA applications back to November 7, 2008.



---

Michael J. Bennane  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 3/03/2010

Date Mailed: 3/03/2010

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.

MJB/jlg

cc:

