

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: 2010-11830

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 12, 2010

Washtenaw 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 January 12, 2010. Claimant and her adult daughter personally appeared and testified.

ISSUE

Did the department properly close claimant's Healthy Kids Medicaid (MA) case at review?

FINDINGS OF FACT

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

(1) In August 2009 claimant was the caretaker relative of a six person household consisting of herself, her husband, two adult children and two minor children, ages 15 and 17.

((2) At that time, claimant's minor children were receiving ongoing Healthy Kids MA; consequently, a mandatory redetermination was required to determine their continued benefit

eligibility pursuant to the department's policy at BAM Item 210, pg 1 (Department Exhibit #1, pg 6).

(3) On July 17, 2009, the department mailed to claimant's address-of-record the necessary reapplication paperwork which specifies this form and other, specific accompanying verifications must be completed and returned to the local office no later than August 3, 2009 (Department Exhibit #1, pg 1).

(4) This notice also states in relevant part:

Call if you have questions or problems getting the proofs. Your specialist may help you get the proofs if you ask for help. Your specialist's name and phone number is listed at the top of this notice. If you do NOT return the application and all of the required proofs by the required due date, your benefits may be cancelled. Please make sure your name is on all proofs (Department Exhibit #1, pg 1).

(5) When the department did not receive these documents or the required verifications a Notice of Case Action (DHS-1605) was mailed to the same address the redetermination materials were mailed to (Department Exhibit #1, pgs 3-5)(See also Finding of Fact #3 above).

(6) This notice is dated August 20, 2009 (Department Exhibit #1, pg 2).

(7) When claimant received this notice, her adult daughter picked-up a hearing request form at the neighboring Department of Community Health building (DCH) on or about October 1, 2009 (See hearing request form dated 10/1/2009), despite the fact the same form was part of the material the department mailed with the Notice of Case Action (DHS-1605) referenced in Finding of Fact #5 above (Department Exhibit #1, pg 5).

(8) Claimant's daughter took this form home for her mother to sign and the department received it on October 9, 2009.

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 department policy states:

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.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. 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.

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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

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.

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.

Only **adequate** notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits.

Exception: At redetermination, **FAP** clients have until the last day of the redetermination month **or** 10 days, whichever is later, to provide verification. See PAM 210. PAM, Item 130, p. 4.

TMAP

See PEM 647 regarding timeliness standards for TMA-Plus determinations. PAM, Item 130, p. 5.

- . 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.

The facts of record reveal the department followed its verification policy to the letter in this case.

Applicants and recipients have the burden to establish program eligibility by timely completing and submitting necessary forms and verifications. In this case, the department mailed the necessary forms and allowed the ten days required by policy to complete and return them. No forms were ever returned; hence, the required written denial notice was sent approximately two weeks later.

Claimant received the denial notice, but denies receiving the reapplication materials. This Administrative Law Judge finds such circumstance highly inconsistent, in light of the fact both communications were mailed to the same address of record.

Furthermore, the department's witness testified credibly the first mailing was never returned as undeliverable; consequently, receipt is presumed. Michigan's case law is well-settled in this area. It provides that proof of mailing of a properly addressed document creates a rebuttable presumption of receipt. *Stacy v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case, claimant failed to provide any testimony or credible documentary evidence sufficient to successfully rebut the presumption of receipt. As such, no basis exists in fact, policy or law to reverse the department's disputed action. Claimant may reapply at any time; however, she should be aware that the department will again request required forms necessary for application processing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly closed claimant's Healthy Kids MA case at review.

Accordingly, the department's action is AFFIRMED.

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

Date Signed: February 4, 2010

Date Mailed: February 4, 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.

MBM/db

cc:

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