

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: 2010-13700

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

[REDACTED]

Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's representative's request for a hearing. After due notice, a three-way telephone hearing was held on [REDACTED]. Claimant did not appear. Claimant was represented at the administrative hearing [REDACTED].

ISSUE

Did the Department of Human Services (DHS) properly process claimant's March 12, 2009 Medical Assistance (MA-P) application?

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 3/12/2009, [REDACTED] filed an MA-P application on behalf of their client.

(2) On 3/16/09 the DHS issued a Verification Checklist (DHS-3503) requesting a number of verifications, including asset records, income records, and identification records, i.e. birth certificate. Under the column marked “personal medical records” the department did not request any records. Under the “other” column, the department did not indicate any medical records. Exhibit 2.

(3) ██████S subsequently requested three extensions which were granted. Prior to the due date for the last extension, on 4/24/09, ██████ provided a copy of claimant’s birth certificate. The DHS did not request any medical verification.

(4) The department did not request any medical records.

(5) ██████ did not submit any medical records.

(6) DHS did not send a notice to the representative or claimant regarding the outcome of the application. A Bridges issued Notice of Case Action regarding AMP was issued, not at issue herein. The department testified that the failure to issue notice herein of the denial of the MA application was due to the “new Bridges computer system.” Exhibit 6.

(7) The department testified at the administrative hearing that the application and retro application was denied due to the representative’s failure to deliver any medical verification.

(8) On 10/30/09 a hearing request was received.

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 Family Independence Agency (FIA or agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105; MSA 16.490(15). Agency policies are found in the Program

Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

It should first be noted that there is no issue regarding a timely hearing request herein. There was no evidence presented at the administrative hearing that a decision notice was issued. This Administrative Law Judge does not find that an AMP approval decision notice meets the requirements under DHS policy and procedure with regard to notifying individuals as to the outcome of an application(s) under DHS policy and procedure, as well as corresponding federal law. It should be noted further that if the department's computer system fails to properly generate notices as required under policy and procedure, then the department still has the duty to issue proper notices. There is no authority to indicate that a computer software program can change or modify DHS policy and procedure or law. Claimant's hearing request is timely.

Regarding the substantive issue herein, general verification policy procedures applicable herein states in part:

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.

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

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. PAM, Item 105, p. 5.

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or the start date of employment. PAM, Item 105, p. 7.

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.

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. PAM, Item 105, p. 9.

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.

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.

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 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.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

If the group is ineligible **or** refuses to cooperate in the application process, send a denial notice within the standard of promptness. PAM, Item 115, p. 15.

Other general verification policy and procedure is found under BAM Item 815 - Medical Determination and Obtaining Medical Evidence. This policy specifically states that the department is to issue a Verification Checklist - DHS-3503 requesting any necessary medical verification for an MRT application.

After careful review of substantial and credible evidence on the whole record, this Administrative Law Judge finds that the department has failed to follow its policy and procedure herein with regard to processing the MA-P application. Specifically, general policy and procedure as well as specific policy found in BAM Item 815 requires that the department indicate what is necessary and when it is due. The department has a duty to clearly indicate what type of verification(s) is necessary for the claimant to complete the application process. Claimant delivered all of the DHS requests for documents/verification. The DHS did not request any medical documents. The DHS cannot now argue that claimant failed to deliver documents that claimant should have known were required. The department's position that [REDACTED] is a savvy client will not excuse the department from following its normal policy and procedure. While this Administrative Law Judge understands that [REDACTED] is in fact a very savvy representative in these matters, this Administrative Law Judge does not know of any authority which would allow the department to treat [REDACTED] differently than any applicant with regard to following its general

verification policy and procedure. For these reasons, and for the reasons stated above, the department's denial is reversed.

DECISION AND ORDER

The department's actions were not correct.

Accordingly, the department's denial of claimant's March 12, 2009 MA-P application was incorrect and is hereby REVERSED. The department is ordered to reinstate the March 12, 2009 application, including any applicable retro months. The department is ordered to issue a Verification Checklist if it is in need of any verification(s) in this case in accordance with its usual policy and procedure. The department shall grant any requested verifications as generally required under general DHS policy and procedure. The department is also ordered to issue its disposition in writing to claimant's representative as to the outcome of this application, even if the DHS's computer generated system notice fails to do so or errs. Claimant shall retain a right to a hearing for 90 days from the date of the new notice should claimant dispute the outcome of the application.

Janice /s/

G. Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 31, 2010

Date Mailed: April 5, 2010

cc:

