

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: 2010-13711

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 13 2010

Genesee 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 April 13, 2010. Claimant did not appear; however, he was represented by [REDACTED]

ISSUE

Did the department properly deny claimant's March 11, 2009 Medicaid (MA)/retro-MA 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 March 11, 2009, claimant's authorized representative [REDACTED] filed an MA/retro-MA application on his behalf.

(2) Seventy-nine (79) days after this application was filed, specifically on May 29, 2009, the department finally mailed ████████ their first request for verifications necessary to complete application processing.

(3) The due date specified for submission of these verifications was June 8, 2009; however, ████████ timely filed a ten-day extension request to June 18, 2009, which the department apparently granted (Client Exhibit A, pgs 1 and 2).

(4) However, on June 18, 2009, the department sent written notice (DHS-1150) to both claimant and ████████ denying the application based on a purported failure to cooperate in submitting the requested verifications by the first extension deadline (6/18/09).

(5) The department sent this denial notice despite the fact ████████ filed a timely request for a second extension deadline to June 28, 2009 (Client Exhibit B, pgs 1 and 2).

(6) This request was made by fax and receipt is confirmed at 14:39 (before 5 pm) on June 18, 2009 (Client Exhibit B, pg 2).

(7) Claimant's authorized representative filed a hearing request.

(8) The hearing was held by telephone conference on April 13, 2010.

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:

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) PAM, Item 110, p. 6.

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

DEPARTMENT POLICY

All Programs

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.

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

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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 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.

Additionally, effective June 1, 2008, the department's policy was revised to provide a specific and unique rule regarding the submission of verifications and timeliness standards when MA applications are being processed. This rule states:

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 up to three times. BAM Item 130, pg 4 (Department Exhibit #1, pg 4).

The documentary evidence of record in this case is clear and undisputed.

Claimant's authorized representative [REDACTED] timely requested a first deadline extension for submission of necessary verifications from June 8, 2009 to June 18, 2009. On that due date(6/18/09), claimant's authorized representative filed a second timely extension request asking for another 10 days. Instead of granting it, the department summarily sent a denial notice (DHS-1150) to claimant and his authorized representative on the very same day their extension request was made (Department Exhibit #1, pg 1). No evidence was presented by the department's witness to establish [REDACTED] failed to make a reasonable effort to comply. In fact, the record reflects [REDACTED] made timely requests for record extensions so they could continue their good faith efforts to find the missing verifications. Consequently, the department's failure to provide three extensions prior to application denial as required by policy constitutes a procedural error which simply cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department prematurely denied claimant's March 11, 2009 MA/retro-MA application.

Accordingly, the department's action is REVERSED and this case is returned to the local office for application reinstatement and reprocessing in accordance with the department's policy.**SO ORDERED.**

/s/

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

Date Signed: May 11, 2010

Date Mailed: May 12, 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.

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