

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER:

[REDACTED]

Reg No. 201032631
Issue No. 2012
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: October 12, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 October 12, 2010. Claimant was represented by [REDACTED]

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's Medical Assistance (MA) benefits.

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 or about September 1, 2009, claimant's representative applied for MA. Claimant himself also applied.
2. On or about March 17, 2010, the department sent claimant written notice that the application was denied. The department conceded on the record that it did not send a written notice to claimant's representative.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department manuals provide the following policy statements and instructions for caseworkers:

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). Adequate notice is given in the following circumstances:

All Programs

- Approval/denial of an application.
- Increase in benefits.

Bridges Administrative Manual (BAM) 220
42 CFR 431.200-.250
42 CFR 435.912-.913,.919

The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

The action being taken by the department; and
The reason(s) for the action; and
The specific manual item(s) that cites the legal base for an action, or the regulation, or law itself. See BAM 220.

The AHR or, if none, the client has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

BAM 600

42 CFR 431.200-.250
42 USC 1396r-5

In this case, the department conceded on the record that it did not issue adequate notice of MA denial to claimant's representative as required by department policy. Not having a denial notice, claimant's representative, did not have opportunity to request a timely hearing or to promptly reapply. As such, the department's action can not be upheld. Adequate written notice must be

issued. Department policy provides that hearing requests must be made within 90 days of the date of the written notice, not the date of the actual case action. Finding of Fact 1-2; BAM 220, 600.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services did not act in compliance with department policy when it denied claimant's Medical Assistance.

Accordingly, the department's action is, hereby, REVERSED. The department is to initiate an evaluation of claimant's eligibility for MA in compliance with department policy and this Decision and Order.

/s/

Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 22, 2010

Date Mailed: December 22, 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.

JAB/db

cc:

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