

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: Jack Taylor,

Claimant

Reg. No: 2010-32916
Issue No: 2006
Case No: 112551771
Load No: 3900025247
Hearing Date:
July 29, 2010
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 claimant's request for a hearing. After due notice, a telephone conference hearing was held on July 29, 2010.

ISSUE

Did the DHS properly deny claimant's Medical Assistance application on the grounds that claimant failed to comply with the verification request?

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 October 22, 2009, claimant and Accreditive Health Inc./representative applied on behalf of claimant. Claimant applied for two months of retro.

(2) On December 9, 2009, the DHS issued a 3503 to claimant and the rep, requesting verifications due by December 18, 2009. The department testified that claimant failed to deliver the requested verifications by the December 18, 2009 due date and the department then denied claimant's application.

(3) The department subsequently changed its testimony stating that it had a number of conversations. The department represented that the rep was unable to reach claimant. Evidently, the department's testimony was that the department had communication with claimant.

(4) Claimant's new rep at the administrative hearing indicated that claimant had to send out of state the copies of birth certificates and also obtain copies of car titles which could not be returned in ten days.

(5) The department stated at one point that it was unable to reach claimant and another point where there were in fact conversations with claimant.

(6) During this time, the department testified that the verifications were completed and delivered in January pursuant to Exhibit #5. Exhibit #5 has a date stamped on it of April 15, 2010. The department's exhibits, and those exhibits submitted to SOAHR for the administrative hearing were not the same documents.

(7) The department testified that claimant was subsequently opened an MA case based upon FIP eligibility. The department testified that the eligibility was based upon a dependent who is "probably not in the home in a previous application." Claimant testified that the 16-year-old dependent was always in the home during all times at issue herein. The department testified that claimant was previously processed as an MRT. The department indicated that it could not testify as to the processing of this case as an MRT at the time of the

application at issue herein as it did--October 22, 2009 as the department did not have the file.

The verification checklist requested the following verifications:

Personal Medical Records:

Health insurance cards for all in the home

Income Records:

Income from renters, roomers and/or boarders.
Unemployment Compensation
Child Support or Alimony for the last year.
Military allotment
RSDI and SSI Income
Pension/retirement Income
Veterans' Benefits
Sick Pay
Worker's Comp or Disability Benefits
Tribal Gaming Revenue
Bring/send records of all income that you have

Asset Records:

Current bank statements, all savings, checking, money market accounts, verification of assets.

Titles to any cars, trucks, snowmobiles, etc.

Records of any Assets Sold or Transferred

Proof of current status of pending lawsuits

Statement from a nursing home of money held for you

Copy of original trust papers and any changes made

Proof of current value and availability stocks, bonds, notes--etc.

Records of mortgages or land contracts you hold

Life insurance...

Burial contracts

Bring/send records for all assets that you have

Other:

Verify if claimant has access to 401(k) account. Please provide verification of any medical coverage at home. Provide verification of birth certificates.

(8) On January 25, 2010, claimant filed a hearing request.

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).

General verification policy and procedure is found in numerous items. Applicable to the case herein, the policy states in part:

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.

All Programs

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.

Responsibility to Report Changes

All Programs

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.

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.

Assisting the Client

All Programs

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.

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.

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.

FAP Only

Do **not** deny eligibility due to failure by a person **outside** the group to cooperate with a verification request. In applying this policy, a person is considered a group member if residing with the group and is disqualified: See “**Disqualified Persons**” in PEM Item 212. PAM, Item 105, p. 5. 7 CFR 273.1.

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.

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.

ELIGIBILITY DECISIONS

Denials

All Programs

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.

In this case, the testimony was very confusing. Of significance, is whether this case was or should have been processed initially as a life case and not an MRT case. The department testified that all verifications were returned. The department's testimony as to the return date was inconsistent and the evidence submitted did not match the testimony. Moreover, the department indicated it was unable to testify as to what was actually done if it did not have the file for the application at issue at the administrative hearing--October, 2009. Evidently, the department had a file which dealt with a subsequent reapplication which was opened and approved for the FIP program.

The department indicated that a minor child was "probably not in the house at the time of the October, 2009 application." Credible evidence on the record is that the dependent child was in fact always in the home at all months at issue herein.

Under the above-cited verification policy and procedure, it is a general rule that the department is not to deny an application where a third party does not cooperate with verification requests. While not directly on point, the fact that claimant had to wait for verification or copies of a certified birth certificate from out of state is certainly a factual situation which would

constitute generally recognized good cause--claimant has no control over the turnaround time of another state in delivering identification papers. Moreover, as noted above, policy requires the department to extend the record where there is a need. In this case, claimant obviously had a need. The department's testimony with this regard was inconsistent--initially the department testified there is no contact with claimant; later, the department testified there were a number of conversations prior to the denial at the end of December, 2009.

After careful review of the substantial and credible evidence on the whole record, and in conjunction with these facts as on the record as they relate to the applicable policy and procedure, this ALJ finds that claimant did not refuse to cooperate as required under PAM Item 115, p. 15. Specifically, this policy does not allow the department to deny unless an individual refuses to cooperate. Claimant did not exhibit a refusal to cooperate with the department but in fact was collecting over 30 verification(s) requested by the department. The department's request was quite extensive and included all those identified in Finding of Fact #7. The DHS testimony and evidence did not corroborate the "failure to comply" policy as outlined in DHS policy and procedure. The evidence the department submitted to the ALJ and the evidence the department had at the evidentiary hearing were from two different files. The testimony was inconsistent at times regarding communication with a representative and/or claimant.

For these reasons and for the reasons stated above, the department's actions are reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant did not fail to comply with the DHS verification requests as outlined under DHS policy and procedure.

Accordingly, the department's denial is hereby REVERSED.

The department is Ordered to reinstate claimant's October 22, 2009 application and reprocess claimant's application based upon the provided asset and income records which the department stipulated it received in January, 2010. The DHS shall process this case under all potential programs for which claimant may be eligible, including FIP-related MA. The department shall issue new notice to claimant and to claimant's new representative. Claimant shall have the right to a new hearing for 90 days from the date of the new notice should he dispute the outcome of the new disposition. It is SO ORDERED.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 9, 2010

Date Mailed: August 10, 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.

JGS/tg

2010-32916/JGS

cc: J. Taylor
M. Radtke
Kalamazoo County DHS
D. King
M. Best
J. Rogers
J. G. Spodarek
Administrative Hearings (2)