

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

IN THE MATTER OF:



Reg. No: 201041023
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 20, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on October 20, 2010.

ISSUE

Did the Department of Human Services (DHS) correctly deny claimant's MA application for failure to return required verifications?

FINDINGS OF FACT

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

- (1) Claimant applied for MA in Wayne County on June 26, 2009, with retroactive coverage to March 2009.
- (2) Claimant returned all necessary verifications.
- (3) Claimant's MA application was denied on February 11, 2010 for failing to return required verifications.

- (4) Evidence was not submitted that claimant had failed to return verifications.
- (5) Claimant requested a hearing on March 23, 2010.
- (6) The Department's hearing representative did not appear at the hearing, despite numerous attempts to secure the representative's presence at the hearing.
- (7) Claimant was represented by [REDACTED].

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM) and Reference Tables (RFT).

Under normal circumstances, the undersigned would begin a recitation of the applicable law, and state exactly how it was relevant to the current case. However, these are not normal circumstances. During the course of the hearing, the Department did not submit any evidence into the record. The Department representative in charge of the case did not appear, despite substantial efforts to locate this representative. A message was left with the Department representative to contact SOAHR at any time prior to the close of the hearing to participate; the representative did not contact either SOAHR or the Administrative Law Judge. Furthermore, the Administrative Law Judge started the hearing at 3:30pm, even though the hearing was originally scheduled for 2:30pm, in order to attempt to find the Department representative. Eventually, the

record had to be closed without Department participation. As a result, no evidence was submitted into the record by the Department.

Therefore, the Administrative Law Judge rules that the Department has not shown that claimant failed to return the verification packet. The Department also has not shown that the claimant even received a verification packet. No documentary evidence was provided. The hearing packet—which, it should be noted, was never offered into evidence—did not contain a verification checklist or any documentation showing that the claimant had been sent a verification request, and would have been considered inadequate had the initial Department representative appeared.

Additionally, the claimant's representative submitted un rebutted evidence into the record that showed that all verifications were returned in a timely manner.

Furthermore, the Department representative was on notice of this hearing. The record shows that the Department initially contacted the claimant's representative to get documents before the hearing; it was only after the undersigned attempted to contact the representative to start the hearing that the representative was unable to be located.

For these reasons, the undersigned must hold that the Department has not proven their case.

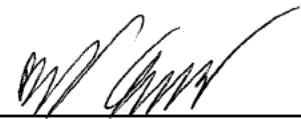
The Administrative Law Judge is under no burden to provide the Department of what is needed to prove their case, and will not argue the Department's case for them. If the Department fails to submit adequate evidence, the Administrative Law Judge will rule on the evidence that has been provided. In the current case, no evidence has been provided. Therefore, the undersigned must rule that there was no violation of Department policies on behalf of the claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant did not fail to return his verification packet.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

The Department is ORDERED to process claimant's MA application of June 26, 2009, with retroactive MA to March 2009.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/25/10

Date Mailed: 10/25/10

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 mailing 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.

RJC/dj

cc:

