

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: 2010-45731
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 21, 2010
Marquette County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 21, 2010. Claimant did not appear. Appearing and testifying on claimant's behalf was her authorized representative [REDACTED].

ISSUE

Did the department correctly deny claimant's Medicaid (MA) and retro MA application in May, 2010?

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, through her authorized representatives, applied for MA and retro MA on January 29, 2010.

2. On February 1, 2010 department mailed out a DHS-3503, Verification Checklist, addressed to the claimant. This form copy has a hand-written notation that a copy was sent to [REDACTED]. (Department's Exhibit 10).

3. The information requested on the Verification Checklist had a due date of February 11, 2010.

4. On February 16, 2010 department mailed the claimant a Notice of Case Action, DHS-1605, denying her application due to failure to provide requested information. This form copy also has a hand-written notation saying "original-Central Print 2/16/10, copy mailed to [REDACTED]. 2/17/10". (Department's Exhibit 4).

5. Department provided as one of exhibits a Bridges View History Correspondence printed out on May 19, 2010. This document has a Document Description listing what type of forms were issued by the computer system and it contains one entry for the Verification Checklist, DHS-3503 on February 1, 2010, but two entries for a Notice of Case Action, DHS-1605, on February 16, 2010 with a hand-written note "client", and a "Reprint" on February 17, 2010 with a hand-written note "[REDACTED]" (Department's Exhibit 1).

6. On March 10, 2010 [REDACTED] faxed a letter to the department stating they never received a Verification Checklist. Hand-written note by the caseworker states that a telephone call was made to [REDACTED] explaining when particular forms were mailed to them. (Department's Exhibit 2).

7. [REDACTED] then requested a hearing on May 13, 2010 (date the request was received in Ingham County DHS), stating that they never received the Verification Checklist.

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 Program Reference Manual (RFT).

Departmental policy specifies the procedure to be followed by the department when additional verification is needed to determine an applicant's eligibility for departmental programs. Verification Checklist, DHS-3503, is to be used citing when additional information/verification is needed, and a 10 calendar day period given to provide such documentation. If the department is made aware that the applicant is making a reasonable effort to obtain the requested information but is unable to provide it within the 10 day period, the time limit to provide the information can be extended up to three times. BAM 130.

In this case department claims that a copy of the Verification Checklist was mailed to claimant's representative, [REDACTED], on February 1, 2010. [REDACTED] deny receipt of this Checklist. Bridges Document Description in View History Correspondence (see Statement of Fact 5) shows only one print of the Verification Checklist, but two prints of the denial notice, DHS-1605. The caseworker that processed claimant's application has retired and is not available for the hearing. Department's representative testified that the caseworker must have made a copy of the Verification Checklist on the local office copy machine and then hand-wrote on it that it was indeed mailed to [REDACTED]. Claimant's representative states that the hand-written note could have been placed on the document at any time and is not proof that the copy of the Checklist was indeed sent out on February 1, 2010. This Administrative Law

Judge must agree with this claim, as it is not possible to determine when the notation was made, and it is peculiar that the caseworker would use the Bridges system for only one printout of the Verification Checklist and then use the same system for two printouts of the denial notice.

Department's representative is not in a position to explain why this occurred, as the caseworker is no longer with the department.

It is also noted that [REDACTED] handle large number of MA applications, and that the issue of whether the correspondence is provided to this organization has arisen in many hearings. [REDACTED] appear to have adopted a procedure of faxing majority of documents to the department, as the fax confirmation is then proof that the documents were indeed provided and on what date. Perhaps the department should also review their procedures and find a way to insure that the evidence of form mailings is hard to dispute. In the instant case the evidence presented does not establish that the department indeed mailed the Verification Checklist to claimant's representative on February 1, 2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly denied claimant's MA and retro MA application.

Accordingly, department's action is REVERSED. Department shall:

1. Process claimant's disputed January 29, 2010 disputed MA and retro MA application.
2. Obtain any additional information needed to determine claimant's eligibility by providing a Verification Checklist to the claimant and her representatives.
3. Notify the claimant and her representative of MA and retro MA eligibility determination.

SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 28, 2010

Date Mailed: October 29, 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 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.

IR/tg

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