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

IN THE MATTER OF:

Reg. No.:   2010-46288
Issue No.:   2012
Case No.:
Load No.:
Hearing Date: October 28, 2010
DHS County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37, and Claimant's request for a hearing. After due notice, a telephone hearing was held on October 28, 2010. Claimant did not appear, and, ██████████████ ████████████████████, appeared and testified on behalf of Claimant. ██████ ████████████████████████████████, appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied Claimant's Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1.   On October 23, 2009, Claimant applied for MA benefits.

2.   Claimant's Authorized Representative is ████████████████.

3.   DHs failed to send the Verification Checklist, requesting additional information, to the Authorized Representative.

4.   On February 17, 2010, DHS denied Claimant's application for MA.

5.   On May 13, 2010 Claimant filed a request for hearing with DHS.

<u>CONCLUSIONS OF LAW</u>

MA was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. DHS administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). The manuals are available online at www.michigan.gov/dhs-manuals.

In this case, there is no dispute of fact that, although ▮▮▮▮ was Claimant's Authorized Representative, DHS failed to send ▮▮▮ its request for further information. Also not in dispute is the reason for the denial in this case, which is that Claimant failed to provide verifications as requested in the Verification Checklist.

DHS cites BEM 260 and 261 as authority for its position in its Hearing Summary. I have reviewed these manual sections and I find that they describe the MA program, but they do not address whether that the Authorized Representative is the party which must be sent requests for information.

I find that BAM 105, "Rights and Responsibilities," is the section that is applicable in this case. BAM 105 states as follows:

> **RIGHTS AND RESPONSIBILITIES**
>
> **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.
>
> BAM 105, p. 1 (bold print in original).

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Following BAM 105, I find and conclude that DHS failed to protect Claimant's rights when it failed to contact Claimant's Authorized Representative for additional information. I find this is in error and DHS is, accordingly, REVERSED. DHS is ORDERED to reinstate and process Claimant's Application.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is REVERSED. DHS is ORDERED to reinstate and process Claimant's MA application in accordance with all DHS policies and procedures.

_____
Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 1, 2010

Date Mailed: November 1, 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.

JL/pf

cc: