

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2010-46357
Issue No: 2006

[REDACTED]

[REDACTED]

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 January 12, 2011. The claimant and his wife, [REDACTED] appeared via telephone and provided testimony.

ISSUE

Did the department properly terminate the claimants' Medical Assistance (MA) and Medicare Savings Program (QMB) benefits for failure to return the required redetermination documentation?

FINDINGS OF FACT

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

1. The claimants' MA case came due for a redetermination during the month of April, 2010. (Department Exhibit 1)
2. The claimants were mailed a Redetermination form (DHS-1010) on March 16, 2010. The redetermination materials were due to the department on April 1, 2010. (Department Exhibit 1)
3. The claimants did return the Redetermination form to the department on March 26, 2010. (Department Exhibit 1)

4. The claimant did not write anything in the “assets” section. The claimant indicated “no changes” on the comments section. (Department Exhibit 1)
5. On May 7, 2010, the department mailed the claimants a Notice of Case Action (DHS-1605) that indicated their Medicare Savings Program and Medicaid Assistance would close for failure to provide the required verifications. (Department Exhibit 3)
6. The claimants submitted a hearing request on May 17, 2010.

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).

Department policy states:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, 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. BAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

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. BAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. BAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. BAM, Item 130, p. 4.

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. BAM, 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. BAM, Item 130, p. 4.

All Type of Assistance (TOA)

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. BEM 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.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

Discrepancies All TOA

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source.

The claimant is required to comply with the department in providing the verification materials necessary to allow the department to determine initial or ongoing eligibility. BAM 105. In this case, the department alleges that the claimants did not submit the necessary verifications with their Redetermination form. Department policy indicates that a complete redetermination is necessary at least every 12 months. BAM 210.

██████████ testified that her husband did receive the redetermination materials for their annual review. ██████████ completed the form and returned it to the department by the due date. The department indicates that the form was received timely, but that it was lacking verification of assets. A review of the Redetermination form submitted by the claimant's shows that the asset section of the form was not completed. However, the claimants indicated "no changes" on the client comment section.

The department representative reviewed the prior Redetermination form submitted by the claimants. This form had been completed in the same manner. The claimants had not completed the asset section, but indicated no changes in the comments. The department representative could not explain why this Redetermination form had been sufficient, but the most recent one had not been sufficient.

Department policy indicates that before determining eligibility, the department should give the claimant a reasonable opportunity to resolve any discrepancy between their statements and information from another source. BAM 130. The department made no attempt to inform the claimants that they needed to submit any other verification. The claimants would not have known this was necessary as the department had accepted the previous Redetermination form that was completed in the same fashion. The department could have requested additional information/verification by sending the claimant a Verification Checklist (DHS-3503). However, the claimants were not notified that the department believed information was missing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not properly terminate the claimants' Medical Assistance (MA) and Medicare Savings Program (QMB) benefits.

Accordingly, the department's action is REVERSED. The department shall reinstate the claimants' MA and QMB back to the date of closure.

SO ORDERED.

_____/s/_____
Suzanne L. Keegstra
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 2/4/11_____

Date Mailed: 2/4/11_____

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.

