

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201048412
Issue No.: 2006
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 4, 2010
Oakland County DHS (3)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on November 4, 2010. The Claimant appeared and testified and his authorized representative [REDACTED], [REDACTED] also appeared and testified on his behalf. The Department's representatives [REDACTED], FIS and [REDACTED], Assistant Payment Supervisor also appeared and testified on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's application for Medical Assistance, due to Claimant's failure to return verification of citizenship and financial information and assets?

FINDINGS OF FACT

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

1. The Claimant applied for Medical Assistance based on medical disability on September 18, 2009. A retroactive application was also filed for the months of June, July and August 2009 through his authorized representative, [REDACTED].
2. The Department sent the Claimant a verification checklist dated January 4, 2010, requesting verification of citizenship and assets and had a due date of January 14, 2010.

3. The Claimant was also represented, at that time, by [REDACTED]
4. The Department authorized one extension for the return of the requested verifications to January 24, 2010.
5. The application was denied by Notice of Case Action dated February 24, 2010 for failure to provide the requested verifications of citizenship and assets by the due date. Exhibit 1
6. The Notice of Case Action was not sent to the Claimant's authorized representative.
7. The Claimant after much effort was unable to obtain a copy of his birth certificate from the City of [REDACTED] office for birth records.
8. The Claimant submitted all the bank account information for June July and August 2009 and a hand written list of his assets to the Department prior to the due date in a postage paid envelope provided to him by the Department. The Claimant listed his assets as a truck and some personal belongings.
9. The Claimant's authorized representative confirmed that the Claimant advised her that the documents were sent to the Department.
10. The claimant mailed the bank account information and asset information back to the Department one week after receiving the verification checklist.
11. The Department never received the verification information of his bank accounts and assets which the claimant sent to it.
12. The Claimant was born in the City of [REDACTED]. The Claimant was unable to obtain his birth certificate from the City of [REDACTED] as they had no record of his birth.
13. The Claimant also sought a copy of his birth certificate from his family who did not have a copy of it.
14. The Department checked in its computer to attempt to cross reference with the Department of Community Health information to find his birth certificate or birth records and could not locate records of the Claimant's birth records.

15. The Claimant was not advised of the other methods allowed by Department policy which could be used to demonstrate the Claimant's proof of citizenship. The Claimant did call his caseworker to describe the difficulty he was having obtaining his birth certificate.
16. The Department did not make written request to the Department of Community health to assist in verifying the Claimant's citizenship when all efforts and attempts were exhausted by the Department and the Claimant.
17. The Claimant requested a hearing protesting the denial of his application for Medical Assistance. The hearing request was received by the Department on March 31, 2010.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) 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 (PRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6.

The Department is required to verify citizenship or alien status at application for Medical Assistance, pursuant to BEM 225, Pages 2 and 16.

In this case, the Claimant simply was unable to obtain his birth certificate from the City of [REDACTED] where he was born. His family also could not provide a copy. While the Department did attempt to search the DCH cross match system to locate proof of birth, the search was unsuccessful. BAM 130 requires under these circumstances that the Department send a written request to the DCH for assistance in obtaining the verification of citizenship. It provides:

MA and AMP

The Michigan Department of Community Health (MDCH) Program Eligibility Policy Section will evaluate beneficiaries who are unable to provide documentation of citizenship and identity on a case by case basis.

MDCH will attempt to verify citizenship and/or identity after all other possibilities have been exhausted by DHS and the beneficiary.

These attempts include but are not limited to data matches, state to state written and/or verbal inquiries, interviews with friends and relatives and the use of computerized records. If you are unable to verify citizenship or identity for a beneficiary send a written request to:

Michigan Department of Community Health
Eligibility Policy Section
P.O. Box 30479
Lansing, MI 48909

DCH policy email address is Eligibilitypolicy@michigan.gov
All requests must include:

Beneficiary's name.

Case number.

Specialist name, telephone number and email address.

A brief description of the situation, specify if assistance is needed in determining citizenship, identity, or both.

What steps the beneficiary has taken in an attempt to provide the verification.

What steps the specialist has taken in an attempt to verify citizenship or identity. Include the results of the Social Security Administration match and DCH vital records match. BAM 130, page 4.

Additionally, BEM 225 provides a lengthy list of other possible verification sources that can be used to verify citizenship by descending levels of evidence which can include religious records of birth, hospital abstracts, insurance policies and other documents. The Department did not suggest these other sources to the Claimant prior to denying the application. BEM 225, pages 32 and 33.

Based upon the requirement in BAM 130 to seek assistance from the Department of Community Health under these circumstances and the record as a whole the Department's denial of the Claimant's application must be reversed as the Department did not properly assist the Claimant and did not seek the Department of Community Health assistance in determining citizenship as required by the Department Policy as set out above.

This decision is also based upon the credible testimony of the Claimant that he did return the asset list and requested bank statements to the Department in the postage paid envelope. Letters which are mailed in a properly addressed envelope are presumed received unless otherwise rebutted. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case no rebuttal was offered to the testimony that the Claimant mailed the required asset and financial verifications. Under these circumstances it is found that the Claimant mailed the verifications and that the application for medical assistance should not have been denied for refusal to cooperate and provide the requested documentation.

Based upon the foregoing, the Department's denial of the Claimant's application for Medical Assistance must be REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the evidence presented at the hearing did not support the decision of the Department to deny the Claimant's application for Medical Assistance for failure to provide verification of citizenship and failure to provide the financial and asset information and therefore the Department's decision must be REVERSED.

Accordingly, it is ORDERED:

1. The Department's shall reopen and reprocess the Claimant's application and retro active application for Medical Assistance retro active to the date of application and shall assist the Claimant in obtaining proof of citizenship by the alternative methods set forth in BEM 225.

2. The Department shall also request assistance from the Department of Community Health on behalf of the Claimant to obtain verification of citizenship as required by BAM 130.
3. The Department shall provide the Claimant a new a verification checklist and afford the Claimant an opportunity to resubmit the asset list and bank statements it requires to determine eligibility and shall grant extension of time to provide same if requested by the Claimant or his representative.
4. The Department shall provide copies of all notices and determinations to the Claimant's authorized representative, [REDACTED].



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/17/2010

Date Mailed: 11/22/2010

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.

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