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

## IN THE MATTER OF:



Reg. No:	2010-51373
Issue No:	2006
Case No:	
Load No:	
Hearing Date:	
December 16, 2010	
Ingham County DHS	

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

## **HEARING DECISION**

This matter is before the undersigned Admini strative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notic e, a telephone hearing was held on December 16, 2010. Claimant personally appeared and testified. Claimant was represented at the hearing by

## <u>ISSUE</u>

Did the Department of Human Services (the department) properly deny claimant's application for Medical Ass istance and retro active Medical Assis tance benefits based upon it's determination that claimant failed to provide verification information in a timely manner?

# FINDINGS OF FACT

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

- (1) On August 27, 2009, submitted an application for
- (2) They were requesting retroactive Medical Assistance for July 2009 a nd regular Medical Assistance coverage beginning August 2009.
- (3) On June 2, 2010, the department sent claimant a DHS-3503 ver ification checklist to both and the client indicating that they needed a bank statement from claimant in order to determine B.A. Medical Assistance eligibility.

- (4) Verification's were due June 14, 2010.
- (5) The department provided an extension to June 24, 2010.
- (6) No verification of assets was received.
- (7) On June 24, 2010, the department caseworker s ent notice that her Medical Assistance and retroactive Medical Assistance applic ation was denied based upon failure to provide verification information.
- (8) On July 12, 2010, filed a request for a hearing to contest the department's negative action.

#### CONCLUSIONS OF LAW

The Medical Assistance (MA) program is estab lished by Title XIX of the Social Sec urity Act and is implemented by T itle 42 of the C ode 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 Administ rative Manual (BAM), the Program Eligibili ty Manual (BEM) and the Program Reference Manual (PRM).

# Cooperation, Verification, and Eligibility Determination (Rev. 01-01-08)

## 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, Item 105, p. 1.

## CLIENT OR AUT HORIZED RE PRESENTATIVE RESPONSIBILITIES

#### **Responsibility to Cooperate**

#### All Programs

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

## **Client Cooperation**

The client is responsible for providing evidence needed to prove disability or blindness. However, you must assist the client when they need your help to obtain it. Such help includes the following:

- Scheduling medical exam appointments
- . Paying for medical evidence and medical transportation
- . See BAM 815 and 825 for deta ils. BEM, Item 260, p. 4.

A client who refuses or fails to submit to an exam necessary to determine disabilit y or blindness **cannot** be deter mined disabled or blind and you may deny or close the case. BEM, Item 260, p. 4.

# All Programs

Clients must completely and truthfully ans wer all questions on forms and in interviews. BAM, Item 105, p. 5.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. BAM, Item 105, p. 5.

## **FAP Only**

Do **not** deny eligibilit y due to failure to cooperate with a verification request by a person **outside** the group. In applying this policy, a person is considered a group member if residing with the group and is disqualified. BAM, Item 105, p. 5.

## **Refusal to Cooperate Penalties**

## All Programs

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

## **Responsibility to Report Changes**

## All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- after the client is aware of them, or
- . the start date of employment. BAM, Item 105, p. 7.

**Income** reporting requirements are limited to the following:

- Earned income
  - .. Starting or stopping employment
  - .. Changing employers
  - .. Change in rate of pay
  - .. Change in work hours of more than 5 hours per week that is expected to continue for more than one month
  - Unearned income
  - .. Starting or stopping a source of unearned income
  - .. Change in gross monthly income of more than \$50 since the last repor ted change. BAM, Item 105, p. 7.

See BAM 220 for processing reported changes.

Other reporting require ments include, but are **not** limited to, changes in:

- . Persons in the home
- . Marital status
- . Address and shelter cost changes that result from the move
- . Vehicles

- . Assets
- Child support expenses paid
- . Health or hospital coverage and premiums
- Day care needs or providers. BAM, Item 105, pp. 7-8.

**For TLFA onl y,** the client must report to the specialist any month the work requirement is not fulfilled.

Explain reporting requirements to all clien ts at application, redetermination and when discussing changes in circumstances. BAM, 105, p. 8.

#### Verifications

#### All Programs

Clients must take actions with in their ability to obtain verifications. DHS staff must a ssist when necessary. See BAM 130 and BEM 702. BAM, Item 105, p. 8.

## LOCAL OFFICE RESPONSIBILITIES

#### All Programs

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignit y and respect by all DHS employees. BAM, Item 105, p. 8.

## VERIFICATION AND COLLATERAL CONTACTS

#### DEPARTMENT POLICY

#### All Programs

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

Obtain verification when:

- . required by policy. BEM it ems specify which factors and under what circumstances verification is required.
- . required as a loc al office option. The requirement **must** be applied the same for every client. Local

requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.

information regarding an eligib ility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. BAM, Item 130, p. 1.

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

Verification is **not** required:

- . when the client is clearly ineligible, or
- for excluded income and assets **unless** needed to establish the exclusion. 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, Verifica tion Check list, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2.

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

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment.

*Exception:* Alien inf ormation, blindness, disability, incapacity, incapabilit y to dec lare one's residence and, for FIP only, pregnancy must be verified. Citizens hip and identity must be verified for clie nts claiming U.S. citizenship for applicants and recipients of FIP, SDA and MA. BAM, Item 130, p. 3.

## **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 can<u>not</u> provide t he verific ation des pite 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 elaps ed and the client has <u>not</u> 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 giv en has elapsed. BAM, Item 130, p. 4.

Only **adequate** notic e is required for an application denial. **Timely** notice is required to reduce or terminate benefits.

*Exception:* At redetermination, **FAP** clients have until t he last day of the redetermination month **or** 10 days, whichever is later, to provide verificati on. See BAM 210. BAM, Item 130, p. 4.

## TMAP

See BEM 647 regarding timeliness standards for TMA-Plus determinations. BAM, Item 130, p. 5.

The department is to allow the client 10 c alendar days to provid e verification that has been requested. If the client cannot provide the verification despite a reasonable effort, the department is to extend the time limit up to 3 times. BAM, Item 130, p. 5.

In the instant case, and authorized representative for client, indicated that it requested extensions of time on June 14, 2010 and June 22, 2010, to be given because they were making the best efforts to obtain the necessary verifications. The verifications that if an extension could not be granted despite their best efforts to obtain n the verifications that the Department of Human Services with the system or use the best available information to make a determination. Attached to

request is a faxed copy of a let ter dated June 22, 2010, which indicates that were still waitin g for Hospita I bills from July 2009 to September 2009 an d bank verifications and social security cards and they requested an extens ion date to July 4, 2010.

In this case, the department only allowed **extension** 1 extension of time to provide verification information. BAM policy indicates that the department is to extend the time up to 3 ti mes. Therefore, the department has not est ablished by the necessary competent, material and subst antial evidence on the record that it was acting in compliance with department policy when it denied c laimant's application for Medical Assistance and retroactive Medical Assistance benefits based upon its' determination that claimant failed to provide verification information in a timely manner.

## DECISION AND ORDER

The Administrative Law Judge, based upon t he above findings of fact and conclusion s of law, decides that t he department has not established by the necess ary competent, material and substantial ev idence on the r ecord or by prepond erance of the evidence e that it was acting in comp liance with department policy when it denied claimant's Medical Assistance and retroac tive Medical Assistance benefit applic ation. T he department did not extend the time limit up to 3 times for purposes of providing verification information.

Accordingly, the department's decision is REVERSED. The department is ORDERED to reinstate claimant's Augus t 27, 2009, Medical Assistance e and retroactive Medical Assistance application. The department shall give claimant 30 days in which to provide verification information. On ce the 30 day s is completed the department is to make a determination as to whether or not claimant is otherwise eligible for Medical Assistance and retroactive Medical Assistance and shall send claimant notice in writing.

Landis

/s/

Y. Lain Administrative Law Judge for Maura D. Corrigan, Director Department of Human Services

Date Signed: February 2, 2011

Date Mailed: February 2, 2011

# 2010-51373/LYL

**NOTICE**: Administrative Hearings may or der a rehearing or reconsideration on either its own motion or at t he request of a party wit hin 30 days of the ma iling date of this Decision and Order. Administrative Hear ings will not orde r a rehearing or reconsideration on the Department's mo tion where the final decis ion 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.

cc:

LYL/alc