

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: 2010-6371
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 10, 2010
Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 February 10, 2010. Claimant was represented by [REDACTED]

ISSUE

Whether the Department of Human Services (department) properly applied department policy to claimant's circumstances.

FINDINGS OF FACT

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

- (1) May 22, 2009, the department received claimant's application for Medical Assistance.
 - (2) June 12, 2009, the department sent claimant a Verification Checklist (DHS-3503) indicating required proofs to determine eligibility and listing a due date of June 24, 2009.
- Department Exhibit A, pg 1.

(3) September 19, 2009, the department sent claimant a Medical Program Eligibility Notice (DHS-4598) indicating the application was denied due to failure to provide verifications due on June 24, 2009. Department Exhibit A, pg 2.

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 manuals provide the following statements and instructions for caseworkers:

The client must obtain required verification, but the department must assist if they need and request help. If the client cannot provide the verifications despite a reasonable effort, extend the time limit up to three times for MA. Allow the client ten calendar days or other time limit specified in policy to provide the verifications you request. Verifications are considered to be timely if received by the date they are due. 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. Bridges Administrative Manual (BAM) 130; 42 CFR 435.913(a); 42 CFR 435.916(b); MCL 400.37; Public Law 109-171.

In this case, the department properly sent a Verification Checklist to claimant indicating required proofs and setting an appropriate due date. At hearing, claimant's Durable Power of Attorney credibly testified that she had contacted the department and met with a department employee indicating that some of the required proofs would take a little bit longer to obtain.

Durable Power of Attorney was under the understanding that this was acceptable to the department. At hearing, the department testified that someone may have met with Durable Power of Attorney but did not recollect such a meeting. Accordingly, a preponderance of the evidence establishes that the Durable Power of Attorney was under the understanding that the deadline was extended until she could obtain additional verification. Accordingly, the department has not meet its burden of proof and its action cannot be upheld. Finding of Fact 1-2.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services did not act in compliance with department policy when it determined claimant's eligibility for Medical Assistance.

Accordingly, the department's action is, hereby, REVERSED. The department is to initiate a determination of claimant's eligibility for Medical Assistance in compliance with department policy and this Decision and Order.

/s/ _____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 22, 2010

Date Mailed: April 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 receipt 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.

2010-6371/jab

JAB/db

cc:

