

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201049529

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 18, 2010

Lapeer County DHS

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Claimant's request for hearing. After due notice, a three way telephone conference hearing was held on November 18, 2010. Although the claimant did not appear, his authorized representative, [REDACTED] from [REDACTED] was present and testified.

ISSUE

Did the Department process the claimant's Medical Assistance (MA) Application according to policy?

FINDINGS OF FACT

This Administrative Law Judge, based upon the evidence on the whole record, finds as material fact:

- (1) The claimant through his authorized representative filed an MA and Retroactive MA Application on July 8 2009.
- (2) The Medical Review Team (MRT) denied the MA application on September 9, 2009 finding the claimant not disabled. (Hearing summary.)
- (3) The Department sent Notice of Action DHS-1605 to the Claimant, [REDACTED], stating that his claim was denied.

- (4). The Department can not provide any evidence that the DHS-1605 was sent to the Authorized Representative.
- (5) A Request for Hearing was submitted on January 26, 2010 stating that the Claimant's authorized representative did not receive the DHS-1605 as well as the Verification checklist DHS-3503.

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.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (BRM). Department Policy states:

AUTHORIZED REPRESENTATIVES

All Programs

An **authorized representative** (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (e.g., to obtain FAP benefits for the group). The AR assumes all the responsibilities of a client; see [BAM 105](#).

The AR must give his name, address, and title or relationship to the client.

To establish the client's eligibility, he must be familiar enough with the circumstances to complete the application, answer interview questions, and collect needed verifications. BAM 110.

In this case, the Department received a MA Application from the Claimant clearly specifying [REDACTED] as his authorized representative. The MA Application was sent to the Medical Review Team for disability determination in accordance with Department policy BEM 260. The MRT denied the Claimant's application on September 10, 2009 finding that the claimant was not disabled.

This Administrative Law Judge, based upon credible, material and substantial evidence, decides the Department has properly complied with policy in processing the application (i.e. submitting the application to the MRT). However, the Department was required to provide Notice of Case Action to the Authorized Representative. The Authorized Representative testified that notice was not received. The Department representative testified that he has nothing in the file to indicate that the Authorized Representative was sent the required notification. Therefore, it is found that the Department did not provide the DHS 1605 indicating the Department's action on the claimant's application to the claimant's authorized representative as required. The claimant's application was denied based on disability. The claimant has the right to request a hearing on the disability determination. However, this claim is not before this Administrative Law Judge. The Department's failure to send the DHS 1605 to claimant's representative prevented the representative from requesting a hearing on the disability issue in a timely manner.

DECISION AND ORDER

This Administrative Law Judge, based upon the above findings and conclusion of law, decides that the Department correctly processed the Claimant's MA and retro MA application by submitting it to the MRT. However due to the Department's failure to send DHS 1605 to Claimant's representative, Claimant will have 90 days from the date of this decision to file a hearing on the disability issue.

It is so ORDERED.

/s/ _____
Kandra Robbins
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 2, 2010

Date Mailed: December 3, 2010

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

KKR/tg

2010-49529/KKR

cc:

