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: 2010-9631
Issue No: 2006
Case No: [redacted]
Load No:
Hearing Date:
June 9, 2010
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 June 9, 2010. Claimant is currently in a nursing home and did not appear. Claimant was represented at the hearing by her guardian [redacted]

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA) 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 September 14, 2009, a claimant filed an application for Medical Assistance and retroactive Medical Assistance benefits.

(2) On September 24, 2009, the department caseworker sent claimant a 3503 verification checklist with verifications due October 9, 2009.

(3) All verifications were provided except there was no proof of a pension or retirement and no proof of burial funds provided to the department.

(4) On October 19, 2009, the department caseworker sent claimant notice that her application was denied for failure to provide verification information.

(6) On November 16, 2009, claimant filed a request for a hearing to contest the department's negative action.

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

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. PAM, Item 105, p. 1.

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. PAM, 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 PAM 815 and 825 for details. PEM, Item 260, p. 4.

A client who refuses or fails to submit to an exam necessary to determine disability or blindness **cannot** be determined disabled or blind and you may deny or close the case. PEM, Item 260, p. 4.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, Item 105, p. 5.

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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. PAM, Item 105, p. 5.

FAP Only

Do **not** deny eligibility 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. PAM, 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. PAM, 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. PAM, 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 reported change. PAM, Item 105, p. 7.

See PAM 220 for processing reported changes.

Other reporting requirements 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. PAM, Item 105, pp. 7-8.

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

Explain reporting requirements to all clients at application, redetermination and when discussing changes in circumstances. PAM, 105, p. 8.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, 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 dignity and respect by all DHS employees. PAM, 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 verbal or written statements.

Obtain verification when:

- required by policy. PEM 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 without prior approval from central office.

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

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, 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. PAM, 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. PAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. PAM, 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 information, blindness, disability, incapacity, incapability to declare one's residence and, for FIP only, pregnancy must be verified. Citizenship and identity must be verified for clients claiming U.S. citizenship for applicants and recipients of FIP, SDA and MA. PAM, 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 cannot provide the verification despite a reasonable effort, extend the time limit at least once. PAM, 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. PAM, 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. PAM, Item 130, p. 4.

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

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

TMAP

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

In the instant case, claimant's representative testified that he sent in all the verifications that he had. Claimant's representative testified that there was no burial or funeral contract available, and that there was an error in filling out the application, because claimant was not receiving any type of pension. She was only receiving RSDI income through the Social Security Administration. Claimant's representative stated on the record that he talked to the department caseworker to let her know that those documents were not in existence because the pension did not exist, and there was no burial or funeral contract in effect. Claimant's representative did not know the exact date that he spoke to the department caseworker. The department caseworker that worked on the case is retired and was no longer available for the hearing. No one from the department could testify from personal knowledge as to all the details that occurred. BAM, Item

130, p. 5, indicates that for medical assistance purposes the department is to allow a client 10 calendar days to provide the verification that is requested. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to 3 times. The department is also instructed that before determining eligibility, they are to give the client a reasonable opportunity to resolve any discrepancies between the statements and information from another source. BEM, Item 130, p. 6.

This Administrative Law Judge finds that claimant did not request an extension of time in this case. However, claimant's representative did testify that he contacted the department and stated that there was an error on the application and that there was no pension paid to claimant. Claimant's representative also testified that there was no burial or funeral contract in effect and that he did tell the department caseworker that there was no burial or funeral contract in effect. Therefore, based upon the fact that no one from the department could testify from personal knowledge as to what occurred in this case, this Administrative Law Judge will find that the department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied claimant's application for Medical Assistance benefits based upon the failure to provide verification information in a timely manner.

In the instant case, if the pension did not exist and if the burial contract did not exist and there was no way that claimant's representative could have provided verification information for those things. In addition, claimant's representative did testify on the record that he did talk to the caseworker and notified her that there was no further information. Claimant's representative did provide all other verification in a timely manner as requested by the department. Therefore, the department's decision must be REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that claimant has established good cause for his failure to provide verification information in the form of proof of a pension or funeral and burial contracts, based upon the fact that they were not in effect and did not exist. In addition, the department failed to provide claimant with an extension of time to provide any verification and proof thereof that the pension and the burial fund did not exist. In addition, the department caseworker who worked on the file was not present and there was no one who could testify from personal knowledge as to what happened in this case. The department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied claimant's Medical Assistance benefits application.

Accordingly, the department's decision is REVERSED. The department is ORDERED to re-instate claimant's Medical Assistance and retroactive Medical Assistance benefit application to the September 14, 2009, application date. The department shall use the available information and make a determination as to whether or not claimant is otherwise eligible to receive Medical Assistance benefits. If claimant is otherwise eligible to receive Medical Assistance benefits under the circumstances, the department shall open an on-going Medical Assistance case for claimant for those months in which she eligible from the September 14, 2009, application date and retroactive Medical Assistance application date.

/s/

Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 10, 2010

Date Mailed: June 10, 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.

LYL/alc

cc: [redacted]