

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: 2010-9718

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

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 did not personally appear and testify. Claimant's representative [REDACTED] appeared and testified on claimant's behalf.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA) based upon its 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) [REDACTED] faxed a filing form to reserve the application date for Medicaid for the claimant on July 29, 2009.

- (2) On July 29, 2009, a DHS 330 and DHS 3503 verification checklist was sent to [REDACTED] requesting a completed application within 10 days.
- (3) No application (DHS-1171) or retroactive medical applications were received.
- (4) On August 6, 2009, [REDACTED] faxed a request asking for an extension for filing out the application until August 30, 2009.
- (6) The extension was denied and a phone call to [REDACTED] documented on a DHS-223.
- (7) [REDACTED] sent in another filing form on August 31, 2009, and a DHS-1171 on September 1, 2009, which was processed.
- (8) On August 14, 2009, the department caseworker sent claimant notice that the application date was not preserved because there had been a failure to file an application within the 10 day period.
- (9) On November 12, 2009, [REDACTED] filed a request for a hearing to contest the department's negative action.
- (10) It should be noted for the record that [REDACTED] did not receive authorization to represent claimant until September 11, 2009.

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).

i02001

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.

i02002

**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.

i02003

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.

i02004

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.

i02005

All Programs

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

i02006

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.

i02006(a)

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.

i02007

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.

i02008

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.

i02008(a)

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.

i02008(b)

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.

i02009

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.

i02010

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.

i02020

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 item specifies 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.

i02021

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

i02022

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.

i02023

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.

i02024

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

i02025

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, inability 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.

i02026

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.

i02027

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.

i02028

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.

A request for assistance may be in person, by mail, telephone, or an application can be obtained on the internet. The requester has the right to receive the appropriate application form. Bam, Item 110, p. 1. For a request by letter or telephone the department is to mail the application by the end of the next workday. If the application is not returned, the requester must be contacted according to local office procedures. Applicants must be informed of their option to obtain a DHS-1171, assistance application which includes a filing form. BAM, Item 110, p. 2.

A DHS-1171 application may be used for all MA categories. The date of application is the date that the local receives the required minimum information on an application or the filing form. If application or filing form is faxed, the transmission date of the fax is the date of application.

Record the date of application on the application or filing form. The date of application is not changed for Medical Assistance when the application is transferred to another local office.

BAM, Item 110, p. 5.

In the instant case, no application was ever filed on behalf of claimant. [REDACTED] faxed a filing form to reserve the application date for Medical Assistance for the claimant on July 29, 2009. However, no application was completed. The policy does not require a caseworker to hold an application date for an application that has not yet been filed. Although, the department policy does allow a filing form to reserve the application date for Medical Assistance, no application could be registered because no application was filed. [REDACTED] indicates that they requested an extension of time in which to file the application. However, an application may be filed at any time. It is not the department's responsibility to hold open application dates for the claimant's representative. Application may be made on behalf of a client by his spouse, parent, legal guardian, adult child, step child, specified relative, or any other person provided the person is at least 18 or married. If this person is not a spouse, parent, legal guardian, adult child, step child or specified relative, the person must have a signed authorization to act on behalf of the client, by the client, the client's spouse, parents, or legal guardian. The application must be signed by the client or the individual acting as his authorized representative. In the instant case, [REDACTED] did not receive authorization to represent claimant as an authorized representative until September 11, 2009, which was approximately 2 months after the filing of the original reserved filing form. This Administrative Law Judge finds that [REDACTED] was

not an authorized representative on the date of the filing of the application. Nor would they have been an authorized representative on the date of the filing of the application. Nor would they have been an authorized representative on August 6, 2009, when they requested an extension for filing the application.

The department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied [REDACTED] request for an extension of time to file an application on claimant's behalf.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied [REDACTED] request for an extension to file an application on claimant's behalf. [REDACTED] was not the legitimate authorized representative on July 29, 2009, when the application filing reserve form was filed. Therefore, [REDACTED] has no standing at the time of application to act on claimant's behalf.

Accordingly, the department's decision is AFFIRMED.

/s/

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

Date Signed: June 28, 2010

Date Mailed: June 29, 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

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