

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: 2010-23225
Issue No: 2005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 9, 2010
Lapeer County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 claimant's request for a hearing. After due notice, a three-way telephone hearing was held on June 9, 2010, with the county, claimant's representative-- [REDACTED], [REDACTED], and the Administrative Law Judge. Claimant did not appear.

ISSUE

Did the DHS properly process claimant's September 25, 2009 MA application?

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 25, 2009, [REDACTED] filed an MA application on behalf of claimant. On the original application, there is no client signature and no authorization to represent. [REDACTED] filed an Appearance of Authorization to Represent.

(2) The department failed to issue both DHS-723 and a DHS-330.

(3) On September 29, 2009, the DHS issued a Verification Checklist (DHS-3503) to claimant but failed to issue the checklist to [REDACTED]. The department stipulated that the checklist incorrectly requested a number of verifications on behalf of an individual who is not a part of claimant's MA fiscal group. Department Exhibit #1.

(4) The department argued at the administrative hearing that claimant's representative had actual notice of denial; [REDACTED] argues they did not have actual notice and in any case are required to receive written notice.

(5) The department presented testimony stating that claimant's application was denied on October 27, 2009 (See 12/01/2009 Hearing Summary). The department contends that [REDACTED] received a copy of the facility admissions notice as evidence that [REDACTED] knew that claimant was denied. The Facility Admission Notice was received by [REDACTED] on October 2, 2009 and indicates that claimant's application was denied. Exhibit #2. The department's testimony was inconsistent.

(6) The department presented inconsistent information stating that claimant's application was denied for the reason that failure to cooperate with child support and also testifying that it was denied for an individual who is not a member of claimant's group failure to provide proof of U.S. Citizenship.

(7) [REDACTED] understands that the department has all verifications necessary to process claimant's application.

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).

Applicable policy and procedure to the case herein is found primarily in BAM Item 110. On Pages 8 and 9 of this item, policy discusses what the department is required to do in situations where an incomplete application is received for MA. An application form must be signed by the client or the individual acting as authorized representative. However, when an application is received without the necessary signatures, the department is required to: register the application, and send both DHS-723 and DHS-330. The department is also required to allow ten days for a response. BAM Item 110, pages 8-9. The department sent neither.

Nor did the department issue notice to the representative regarding the disposition of the application.

In this case, the record does not reflect that the department took the actions it was required to take under the application filing and registration policy cited above under BAM Item 110. Nor did the department follow general policy and procedure regarding verification, group composition, proper denial notice, etc. Moreover, the department's testimony herein was contradictory, inconsistent, and failed to cite appropriate and applicable policy and procedure.

After careful review of the substantial and credible evidence on the whole record, this ALJ finds that the department failed to properly process claimant's application as required under policy and procedure and federal law. Thus, the department's denial of claimant's September 25, 2009 MA application is reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly processed claimant's September 25, 2009 MA application.

Accordingly, the department's denial of claimant's September 25, 2009 application is hereby REVERSED.

The department is ORDERED to immediately reinstate claimant's September 25, 2009 application. The department shall reprocess this application in accordance with policy and procedure. If the department is in need of any further verification(s), the department is to follow its policy and procedure regarding verification requests given claimant extensions as required under policy and procedure.

The department shall issue written notice to claimant informing claimant's representative as to the outcome of reprocessing this application. Should claimant's representative dispute the new disposition, claimant's representative shall retain a right to a new hearing for 90 days from the date of the new notice.

It is SO ORDERED.

/s/

Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 16, 2010

Date Mailed: June 17, 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.

JGS/tg

cc:

