

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

IN THE MATTER OF:

[REDACTED]

Reg No. 201027626
Issue No. 2006
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: August 11, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on Wednesday, August 11, 2010. The claimant was not present, but was represented by his attorney, [REDACTED], the claimant's son-in-law, [REDACTED], and daughter, [REDACTED], power of attorney.

ISSUE

Did the department properly deny the claimant's Medical Assistance (MA) application based upon the fact that the claimant did not provide the required verification?

FINDINGS OF FACT

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

1. On June 30, 2009, the claimant applied for MA with retroactive benefits to May 2009. Department Exhibit A-J.
2. On July 17, 2009, the claimant's daughter and power of attorney was sent a letter stating that a final decision had not been made. Department Exhibit Z.
3. On July 29, 2009, the department caseworker sent the claimant a Verification Checklist to provide written verification to determine eligibility for MA that was due August 10, 2009. Department Exhibit M-Y.

4. On claimant called and requested an extension on August 10, 2009 until August 20, 2009.
5. On December 12, 2009, the department caseworker spoke to the claimant's daughter and power of attorney who stated that she had sent in everything that was requested, but some written verifications were still missing so the department caseworker sent out another Verification Checklist on December 14, 2009 requesting the information that was still needed that was due on December 28, 2009. Department Exhibit 21-26.
6. On December 29, 2009, the department caseworker denied the claimant's application for failure to provide required verification when the additional required verification was not received. Department Exhibit 73, 73A.
7. On January 11, 2010, the department received a hearing request from the claimant's, contesting the department's negative action.
8. During the hearing, the department caseworker stated that the cash surrender value of the four life insurance policies from the [REDACTED] and his other life insurance were not provided by the due date of December 28, 2009. In addition, the claimant did not ask for an extension.
9. The claimant's daughter reapplied on January 10, 2010 with retroactive benefits to October 1, 2009, which was approved where the contested time period was June 2009 to September 2009.
10. During the hearing, the claimant's son-in-law stated that he called the caseworker after the December 14, 2009 Verification Checklist was received and told the department caseworker that it would take some time to get the requested verifications.

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).

The department's program eligibility manuals provide the following relevant policy statements and instructions for caseworkers:

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.

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.

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.

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.

ELIGIBILITY DECISIONS

Denials

All Programs

If the group is ineligible **or** refuses to cooperate in the application process, send a denial notice within the standard of promptness. PAM, Item 115, p. 15.

In the instant case, the claimant's daughter who had his power of attorney applied for MA benefits on June 30, 2009 with retroactive MA to May 2009. A Verification Checklist was sent by the department caseworker on July 29, 2009 that was due August 10, 2009. The claimant's daughter called on August 10, 2009 to request an extension to August 20, 2009. On December 12, 2009, the department caseworker spoke to the claimant's daughter and power of attorney to tell her that they were still missing information that was required to determine eligibility and sent another Verification Checklist dated December 14, 2009 with a required due date of December 28, 2009. The department caseworker did not receive the required information to determine eligibility on December 28, 2009 so the claimant's case was denied on December 29, 2009. The department caseworker stated that the claimant's daughter and power of attorney did not ask for an extension, but the claimant's son-in-law stated that he called the caseworker and told her that it would take some time to provide the required information.

The claimant's daughter reapplied for benefits on January 10, 2010 with retroactive benefits to October 1, 2009, which was approved with the assistance of the attorney. The contested time period is from May 2009 to September 2009. After reviewing the written verification and documenting the testimony provided during the hearing, the claimant's daughter and power of attorney was using due diligence in trying to provide the required verifications required by the department. The information was required by December 28, 2009, which is during the Christmas holidays even though she had an earlier verification on July 29, 2009, it seems like some information was not provided

that the department required to determine eligibility. With the reapplication on January 10, 2010, it seems that the required verification was provided and that the claimant's daughter who had power of attorney just needed additional time. Therefore, the department has not established that it was acting in compliance with department policy by determining that the claimant failed to provide the required verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not appropriately deny the claimant's MA case because of failure to provide verification.

Accordingly, the department's decision is **REVERSED** and the department is **ORDERED** to redetermine eligibility for the contested time period of May 2009 to September 2009 based on the information provided on the January 10, 2010 application.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: October 6, 2010

Date Mailed: October 6, 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.

CGF / vc

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