

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: 2010-31121

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 13, 2010

Otsego County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 May 13, 2010. Claimant personally appeared and testified. He was assisted by [REDACTED].

ISSUE

Did the department properly close claimant's Medicaid (MA) case based on failure to return requested verification during the mandatory redetermination process?

FINDINGS OF FACT

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

(1) Claimant was an ongoing MA recipient until the department initiated his mandatory medical review in January 2010 to determine whether or not he still met all of the financial and non-financial factors necessary to receive continued assistance.

(2) During this redetermination process, specifically on March 8, 2010, the department mailed claimant a Verification Checklist (DHS-3503) which requested certain medical verifications from claimant's treating physician necessary to complete the redetermination process, and also, specifically warned claimant these documents must be returned to the local office no later than March 20, 2010 (Department Exhibit #1, pg 7).

(3) This Verification Checklist (DHS-3503) also states:

Call me right away if you cannot come to the interview or if you have any questions or problems getting the proofs. I will help you get the proofs if you ask for help. If the information must be provided on a DHS form, the form is enclosed.

You must get the proofs to me or call me by the due date below. **If you do not, your benefits may be denied or cancelled** (Department Exhibit #1, pg 7).

(4) When claimant failed to return the requested verifications or to contact the department to request an extension of the stated deadline, the department notified him in writing his MA would be cancelled effective May 1, 2009 (Department Exhibit #1, pgs 4 and 5).

(5) Claimant filed a timely hearing request to dispute this action, held May 13, 2010.

(6) Claimant and his counsel personally appeared at the appointed date and time.

(7) At hearing, claimant testified he received all the above-referenced redetermination transmittals from the department.

(8) At hearing, claimant testified he did not return the requested medical verifications because he forgot.

(9) Claimant's counsel argued that a lesser penalty should be imposed, given the fact claimant's failure to comply was unintentional.

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 applicable departmental policy states:

**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.

All Programs

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

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

At application and redetermination:

- . Thoroughly review all eligibility factors in the case.

Applications and redeterminations must be completed within the standards of promptness. See PAM 115, 210. PAM, Item 105, p. 11.

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.

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.

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.

The evidence of record clearly establishes the department properly interpreted and applied all the above-referenced policy in claimant's case. Claimant had the responsibility to comply with this policy. When he failed to do so, the department had no alternative but to close his MA case.

At hearing, claimant's counsel argued this sanction was too harsh and a policy exception should be made for claimant's unintentional forgetfulness. This argument is solely equitable in nature. As such, it is completely outside the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co v Baker*, 295 Mich 237; 294 NW 168(1940). Consequently, absolutely no basis exists in fact, law or policy to reverse the department's MA closure action.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly closed claimant's MA case based on failure to return requested verification during the mandatory redetermination process.

Accordingly, the department's action is AFFIRMED.

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 24, 2010

Date Mailed: May 25, 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.

MBM/db

cc:

