

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: 201038895

Issue No: 2006

[REDACTED]

ADMINISTRATIVE LAW JUDGE: **Kandra Robbins**

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. This matter was originally assigned to [REDACTED]. [REDACTED] is no longer employed by the State Office Of Administrative Hearings and Rules. This matter was reassigned to [REDACTED] to complete the decision after complete review of the record. Claimant's request for a hearing was received on March 23, 2010. After due notice, an in-person hearing was held on August 31, 2010. The Claimant and his authorized representative, [REDACTED], were present and testified.

ISSUE

1. Did the Department properly determine Claimant's eligibility for Medical Assistance (MA) and retroactive Medicaid assistance?

FINDINGS OF FACT

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

1. The Claimant submitted an application for Medicaid and Retroactive Medicaid benefits in September 2009.
2. On November 19, 2009, the Department sent a DHS 3503-MRT Medical Determination Verification Checklist to the Claimant. (Department Exhibit 1).

3. On November 30, 2009, the Department had not received any of the documents requested on November 19, 2009.
4. On March 12, 2010, the Department received the Claimant's Request for Hearing protesting the Department's determination of his MA application.

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM). Department Policy states:

#### **BAM105 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.

##### **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.

##### **Verifications**

### **All Programs**

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702.

### **Assisting the Client All Programs**

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

### **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. BAM, Item 130, p. 2-3. The client must obtain required verification, but you must assist if they need and request help.

### **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. 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.

### **BAM 110 AUTHORIZED REPRESENTATIVES All Programs**

An **authorized representative** (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (for example to obtain FAP benefits for the group). When no one in the group is able to make

application for program benefits, any group member capable of understanding AR responsibilities may designate the AR. The AR assumes all the responsibilities of a client; see BAM 105. The AR must give his name, address, and title or relationship to the client. To establish the client's eligibility, he must be familiar enough with the circumstances to complete the application, answer interview questions, and collect needed verifications.

### **BAM 130 Obtaining Verification All TOA**

Tell the client what verification is required, how to obtain it, and the due date; see **Timeliness of Verifications** in this item. Use the DHS-3503. The client must obtain required verification, but you must assist if they need and request help. 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.

### **BEM 105 SSI-RELATED AND**

#### **FIP-RELATED**

The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. Another category is SSI recipients. There are several other categories for persons not receiving FIP or SSI. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. Therefore, these categories are referred to as either FIP-related or SSI related. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories.

The Claimant submitted an application for MA and Retro-MA in September 2009. The Department sent the Claimant a DHS-3503-MRT Medical Determination Verification Checklist requesting Medical records including a DHS-0049 Medical Examination Report and a DHS-0049D Psychiatric/Psychological Examination Report. The Department did not send the Verification Checklist to the authorized representative. The Authorized Representative states that the neither the Verification Checklist nor the Notice of Action were sent to them. He states that at the time of the application they

provided the hospital medical records from June 2009. He states that they were never given proper notice of the Verification Checklist. Based on Department Policy, the Authorized Representative steps into the shoes of the Claimant; therefore, the Authorized Representative has all of the rights and responsibilities of the Claimant. The Department had notice that there was an Authorized Representative in this matter. The Department failed to provide proper notice to the Authorized Representative regarding the necessary verifications to complete the application. BAM 130 requires that the Authorized Representative on behalf of the Claimant be told what verification is necessary and be given at least 10 days to provided the necessary documents. In this matter, the Authorized Representative on behalf of the Claimant was not given this opportunity. Therefore, this ALJ cannot find that the Claimant did not cooperate with the Department.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that Department failed to give the Authorized Representative the Verification Checklist as required by policy.

Accordingly, the Department's MA action is reversed. The Department shall:

1. Send the Authorized Representative the Verification Checklist for the September 2009 application.
2. Reprocess the Claimant's September 2009 MA application.

It is so ORDERED.

\_\_\_\_\_/s/\_\_\_\_\_  
Kandra Robbins  
On behalf of Jana Bachman  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 2/15/11

Date Mailed: 2/15/11

**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.

[REDACTED]