

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

IN THE MATTER OF:



Reg. No: 201041251
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date: September 29, 2010
Ionia 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 upon claimant's request for a hearing. After due notice, a telephone hearing was held on 9/29/10.

ISSUE

Did the DHS properly propose to close claimant's Medicare Savings Program (MSP) for failure by claimant to return the redetermination forms?

FINDINGS OF FACT

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

1. At all relevant times prior to the proposed negative action herein, claimant was a MSP recipient with the Michigan DHS.
2. Claimant was previously approved MSP beginning 5/1/09 with a review date of 3/31/10.
3. On 2/9/10 the DHS mailed a redetermination form. The form indicates the due date was 3/1/10.
4. The redetermination forms specially states that claimant must complete the required form by the due date and if not, his benefits may be cancelled or reduced. The form also states that if the individual does not understand

the form or needs help that the claimant can contact the specialist before the due date.

5. Claimant's form was due on 3/1/10.
6. Unrefuted evidence was that claimant failed to return the form.
7. On 3/19/10 the DHS issued notice to claimant informing him that his MSP would close beginning 4/1/10 for failure to return the redetermination form.
8. The hearing summary indicates that claimant filed a timely hearing request on 3/30/10 and the department reinstated the action pending the outcome of the hearing.

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).

General verification policy and procedure states in part:

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. BAM, Item 105, p. 1.

All Programs

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

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. BAM, Item 105, p. 5.

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. BAM, Item 105, p. 7.

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. BAM, Item 105, p. 8.

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. BAM, Item 105, p. 9.

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.

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, 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. BAM, Item 130, p. 4.

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. BEM 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. BAM, Item 130, p. 1.

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

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

In this case, unrefuted evidence on the record is that the department complied with its general verification policy and procedure in requesting that claimant complete the redetermination process at review. The department's redetermination form is quite clear and explicit with regards to the due date. Moreover, the form itself specifically states:

...What happens if you do not return the completed form and required proofs by the due date? If you do not return this form and all of the required proofs by the due date, your benefits may be cancelled or reduced. If you do not understand this form and need help completing it, contact your specialist before the due date. Exhibit 6.

Unrefuted evidence on the record is that claimant failed to return the form by the 3/1/10 due date. Claimant commented at the administrative hearing that he was "too busy" at the time that he was required to return the form.

Under the general verification policy and procedure cited above, claimant has a duty to comply with the verification request of the department in order to establish ongoing eligibility. Failure to comply with these requests can result in ineligibility and case closure. In fact, Michigan can be subject to strict monetary damages and penalties for failure to insure that an individual's eligibility is fully and adequately documented in the case file. As it was unable to do so in claimant's case, the department was required under State policy and Federal law to close and/or propose closure of claimant's case.

As the department's actions were correct under policy and procedure, and claimant did indicate any sufficient reason not to return the requested verifications, the department's actions must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's proposed closure is hereby UPHELD.

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

Date Signed: December 20, 2010

Date Mailed: December 21, 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.

JS/vc

cc:

