

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: 201044821
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date: December 2, 2010
Genesee 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 three-way telephone hearing was held on 12/2/10. Claimant did not appear. Claimant was represented at the administrative hearing by attorney [REDACTED].

ISSUE

Did the DHS properly deny claimant's 10/22/08 MA-P and retro 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 10/22/08 [REDACTED] filed an application for MA-P on behalf of claimant.
2. On 11/17/08 the DHS issued a verification checklist to claimant. The DHS did not have any evidence of having notified [REDACTED].
3. The individual who prepared the hearing summary was not available at the hearing for testimony and/or cross examination.
4. The hearing summary is nonsensical—it makes reference to a prior Administrative Law Judge's decision and a prior MA application that has no relevancy to the facts herein.

5. The department had no evidence of having communicated with [REDACTED].
6. It is unclear if the DHS issued a notice of denial on the 10/22/08 MA application.
7. On 6/23/10 claimant's representative filed a hearing request.

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, as noted in the findings of facts, the evidentiary packet prepared for the hearing was nonsensical. That packet contained a prior SHRT decision on a different application, and a prior Administrative Law Judge's decision which had no bearing on the facts of this case. Moreover, the hearing summary indicates that the worker contacted the ALJ on the prior hearing decision; the reason the worker did so is unknown. As noted in the findings of facts, the individual who had personal knowledge of this case was not available at the administrative hearing for testimony and/or cross examination.

The DHS stipulated at the administrative hearing that it did in fact receive the 1171 and the 3243 pursuant to claimant's 10/22/08 application.

After careful review of the substantial and credible evidence on the whole record, this ALJ finds that the department failed to follow its policy and procedure in processing claimant's MA-P 10/22/08 application. Thus, the department is ordered to reinstate that application and process this case in accordance with its usual policy and procedure.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department failed to correctly process claimant's 10/22/08 application.

Accordingly, the department's denial, if in fact there was a denial, is hereby REVERSED.

The department is ordered to reinstate claimant's 10/22/08 MA-P application on behalf of claimant. The department is ordered to communicate with claimant's representative as required by DHS policy and procedure. The department shall issue a verification checklist to [REDACTED] if necessary, requesting any verifications as required under its usual policy and procedure. The department shall process this case in accordance with its usual policy and procedure.

/s/_____

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

Date Signed: December 22, 2010

Date Mailed: December 27, 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:

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