

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: 2010-50568
Issue No: 2006

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 November 10, 2010. The claimant was not present, but was represented by [REDACTED], Power of Attorney for [REDACTED], the claimant's Guardian. This hearing was originally held with Administrative Law Judge [REDACTED], who has left the employment of the State Office of Administrative Hearings and Rules. This Administrative Law Judge has reviewed the spoken and written record in its entirety and issues this decision in her stead.

ISSUE

Did the department properly deny the claimant's Medical Assistance (MA) and retroactive MA application for failure to return the required verifications?

FINDINGS OF FACT

The 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 MA and retro MA benefits on April 22, 2010. (Department Exhibit 1 - 9)
2. On May 4, 2010, the department mailed the claimant's guardian a Verification Checklist (DHS-3503) requiring proof of the prepaid funeral contract/burial policy and information about any trust(s). These items were due back to the department by May 14, 2010. (Department Exhibit 31 – 32)

3. The department granted the claimant's guardian two extensions of time to provide the required material, which made the due date June 3, 2010. (Department Exhibit 32, 33)
4. On June 7, 2010, the department denied the claimant's MA and retro MA application for failure to provide the required verifications. (Department Exhibit 33 – 34)
5. On July 26, 2010, the claimant's guardian submitted a hearing request on behalf of the claimant.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department 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. BAM, Item 105, p. 5.

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. BAM, Item 105, p. 5.

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.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, 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. BAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. BAM, 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. BAM, 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. BAM, Item 130, p. 4.

In this case, the claimant's representative does not allege that the department's actions were not in accordance with department policy. The claimant's representative admits that the department did not receive the required verifications, despite two extensions of time to provide the documents. The representative testified that the verifications were very difficult to gather as the claimant's family was not cooperative; documentation needed to be gathered from other states and documentation was missing or unable to be located. The claimant's representative requests equity to take into account the difficulties experienced.

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. Delegation of Hearing Authority, August 9, 2002, per PA 1939, Section 9, Act 280. Thus, this Administrative Law Judge must find that the department acted in accordance with BAM 130 when they denied the claimant's MA and retro MA application for failure to provide the required verifications within the prescribed time limits.

