

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: 2010-9461

Issue No: 2012

Case No:

Load No:

Hearing Date:

January 20, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 hearing was held on January 20, 2010. The Claimant's representative appeared and testified.

ISSUE

Did the Department of Human Services (Department) fail to process Claimant's application for Medicaid (MA)?

FINDINGS OF FACT

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

1. On September 30, 2009, the Department received an application for MA and retro MA. Attached to the application was a note indicating further information to follow.

2. On October 1, 2009, the probate court appointed a personal representative with the ability to apply for MA.
3. On October 1, 2009, the Department denied the application based upon the Claimant death prior to application and lack of authority to represent.
4. On October 2, 2009, [REDACTED] submitted authorization to represent the Claimant's estate to the Department.
5. On July 8, 2009, the Department received a request for hearing.
6. July 28, 2009, the Department indicated, on a hearing summary, they were in the process of requesting verifications to process the application.

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).

In the present case, the Claimant's representative testified an application for MA was submitted on September 30, 2009 with a request for retro to June 2008. The Claimant's representative asserts the Department received an "incomplete application" and as such the Department was required to follow policy regarding the receipt of incomplete applications. The Department denied the application based upon the lack of authority to apply for MA.

The relevant policy can be found in BAM Item 110, p.8:

MA Only

Application may be made on behalf of a client by his spouse, parent, legal guardian, adult child, stepchild, specified relative or any other person provided the person is at least age 18 or married. If this person is not a spouse, parent, legal guardian, adult child, stepchild, or specified relative the person must have a signed authorization to act on behalf of the client, by the client, client's spouse, parent(s) or legal guardian.

The application form must be signed by the client or the individual acting as his authorized representative.

When an assistance application is received in the local office without the applicant's signature or without a signed document authorizing someone to act on the applicant's behalf you must do the following:

- Register the application as a request if it contains a signature.
- Send a DHS-723, Incomplete Application Notice, to the agency or the individual who completed the application.
- Send a DHS-330, Notice of Missing Information, to the client explaining the need for a valid signature. The signature page of the application may be copied and sent to the agency or individual who filled out the application with the notice.
- Allow 10 days for a response. You cannot deny an application due to incompleteness until 10 calendar days from the date of your initial request in writing to the applicant to complete the application form or supply missing information, or the initial scheduled interview.
- Record the date the application or filing form with the minimum information is received. The application must be registered and disposed of on Bridges, using the receipt date as the application date.

An application received from an agency is acceptable if it is signed by an individual and is accompanied by written documentation from the client authorizing the agency to act as their authorized representative.

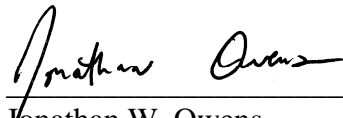
If unrelated adults living in the same home apply for assistance, neither has the authority to act on the other's behalf without written permission from the applicant.

Here, the Claimant's representative submitted an incomplete application for consideration. The Department upon receipt of this application must request information from the Claimant or representative in an effort to make the application complete. Here, the Department denied the application a day after submission without requesting letters of authority to represent or any other information as required by policy. Therefore, the Department failed to follow policy and the denial of the Claimant's application for MA and retro MA must be REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was not acting in compliance with Department policy when it failed to process Claimant's application.

Accordingly, the Department is REVERSED and ORDERED to determine eligibility for MA and retro MA based on the original application dated September 30, 2009.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/26/10

Date Mailed: 03/26/10

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.

2010-9461/JWO

JWO/dj

cc:

