

STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201133356  
Issue No: 2000  
Hearing Date: August 10, 2011  
Calhoun County DHS

**ADMINISTRATIVE LAW JUDGE:** Janice G. 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, an in-person hearing was held on April 10, 2011.

**ISSUE**

Did the department correctly calculate claimant's deductible for the 90 days prior to her April 27, 2011 hearing request?

**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 any issues herein, claimant has been and is an MA recipient with a deductible.
2. Claimant filed a hearing request on April 27, 2011.
3. Claimant is self-employed and has a number of employees and numerous expenses, deductions, and income variations due to her business.
4. The department applies and recalculates claimant's eligibility often from month-to-month.
5. During the 90 days prior to claimant's hearing request herein which is the jurisdictional purview of the undersigned Administrative Law Judge, the department reviewed claimant's numerous verifications and made

determinations as to allowable and non-allowable expenses. The department calculated claimant's deductible. The department failed to give claimant notice as to which expenses were approved and/or denied. Claimant has had no opportunity to resolve any discrepancies regarding her verification as to the denied expenses.

6. Claimant and the department came to an agreed upon settlement.

### **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. PAM, Item 105, p. 1.

##### **All Programs**

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, 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. PAM, 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. PAM, 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. PAM, Item 105, p. 7.

## **Verifications**

### **All Programs**

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, 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. PAM, 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. PAM, 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. PAM, 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. PAM, Item 130, p.

## **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. PEM 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. PAM, Item 130, p. 1.

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

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

## **ELIGIBILITY DECISIONS**

### **Denials**

#### **All Programs**

If the group is ineligible **or** refuses to cooperate in the application process, send a denial notice within the standard of promptness. PAM, Item 115, p. 15.

In this case, under the above cited authority, the department is required to clearly indicate to claimant what verifications are due and what constitutes the necessary verification. This case was very factorally intense due to the self-employment verifications claimant handed in which are quite extensive and very month-to-month. Under the above cited authority, claimant has the right to resolve any discrepancies or ambiguities which the department deems fails to satisfy claimant's expenses and income. This was not done in this case. However, the department indicated that it had clearly indicated on its own notes expenses which were not allowed.

Under the above cited authority, this Administrative Law Judge orders the department to give claimant an itemized statement for the three months prior to claimant's hearing request—January, February and March, 2011 regarding expenses allowed and denied. For those expenses denied, the department is further required to indicate why they were denied, and what verification would suffice to explain how claimant may satisfy any verification request. The department shall issue written notice within ten days of the date of this decision and order. Claimant shall retain a right to a hearing for 90 days from the date of the notice to have any further disputes examined at an administrative hearing. This right to a hearing will not bar claimant and the department from renegotiating during that time and having her deductible changed for her benefit.

## **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly processed claimant's deductible and failed to inform claimant clearly as to what income/expenses were allowed and not allowed.

Accordingly, it is ORDERED:

The department is ORDERED to issue an itemized statement for January, 2011; February, 2011; and March, 2011 as to claimant's income and expenses/deductions submitted for verification for her self-employment. The department shall inform claimant as to what was allowed. For those which were not allowed, the department shall

indicate the same, explain the reason it was not allowed, and further indicate to claimant what type of verification(s) will suffice to meet the department's request. If the department has already compiled information, the department is expected to prepare the itemized statements within ten days of the date of the decision and order. Claimant shall have 90 days from the date of the expense notices sent to claimant to request an administrative hearing should she dispute the denied income/expenses.

It is so ORDERED.

/S/

Janice G. Spodarek  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: August 17, 2011

Date Mailed: August 17, 2011

**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.

JGS/db

cc:

A large black rectangular redaction box covering several lines of text in the distribution list.