

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201149786
Issue No: 6000
Hearing Date: October 6, 2011
Genesee County DHS (District #2)

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, a telephone hearing was held on October 6, 2011.

ISSUE

Did the Department of Human Services (DHS) properly process claimant's February 3, 2010 MA application based on disability?

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 February 3, 2010, claimant applied for MA based on disability in [REDACTED].
2. Claimant's case was subsequently transferred to [REDACTED]. No one at the administrative hearing from [REDACTED] appeared for testimony and/or cross-examination.
3. The individual at the administrative hearing appearing on behalf of [REDACTED] did not have personal knowledge of the facts of this case.
4. Claimant submitted substantial and credible evidence of having complied with the DHS verification requests. Claimant credibly testified that she delivered a DHS-49, DHS-49S, a 3/9/10 letter explaining the

verification(s), and a DHS-49G. All these documents were dated at the time the department requested verification.

5. [REDACTED] denied on May 7, 2010, for failure to deliver verification.
6. On May 18, 2010, claimant filed a hearing request. [REDACTED] failed to take action.
7. In the interim claimant had another hearing wherein she was instructed to present the documents and a copy of her hearing request on the [REDACTED] [REDACTED] action.
8. Jurisdiction is proper.

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).

The first issue to review herein has to do with jurisdiction. As noted in the Findings of Fact, [REDACTED] was not in appearance at the administrative hearing for testimony and/or cross-examination. Claimant was a credible witness. Claimant submitted a May 18, 2010 request for hearing issued to the hearings coordinator. There is no evidence that [REDACTED] acted on her hearing request. This Administrative Law Judge finds that claimant's hearing request is timely and jurisdiction is proper.

General verification policy and procedure is found in a number of items:

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.

Determining Eligibility

All Programs

Determine eligibility and benefit amounts for all requested programs. A DHS-1171 application for cash assistance (FIP/SDA) is an application for medical assistance (MA/AMP), even if medical assistance is not checked as a program being applied for on page 1 of the application. PAM, Item 105, p. 11.

At application and redetermination:

- . Thoroughly review all eligibility factors in the case.

Applications and redeterminations must be completed within the standards of promptness. See PAM 115, 210. PAM, Item 105, p. 11.

Claimant's forms which she was requested to return were submitted to the undersigned Administrative Law Judge for review. A review of these forms indicates that claimant was examined on two different forms pursuant to the request of the department at or about the time of her application on February 3, 2010. There would be no reason for claimant not to have submitted these forms after having them compiled and/or for the physician to forward them to the department. [REDACTED] was not available for testimony and/or cross-examination at the administrative hearing to rebut the presumption that these were delivered. Claimant has a right to cross-exam the department, particularly where she has presented substantial and credible evidence to support her case.

The undersigned Administrative Law Judge has reviewed all the evidence on the record under DHS policy and procedure and general evidentiary rules and finds in favor of claimant. The department's denial is reversed.

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 incorrect.

Accordingly, the department's actions are REVERSED.

The department is ORDERED to reinstate claimant's February 3, 2010 application for Medicaid disability. If there are any outstanding verification(s), the department shall follow its policy and procedure in giving claimant a verification request form specifically delineating which form(s) is necessary, and when it is due.

The department shall issue written notice to claimant informing her of her February 3, 2010 application as required under policy and procedure. Should claimant dispute the outcome of the determination, claimant shall retain a right to a hearing for 90 days as is required to be noticed on her correspondence regarding the disposition of her application.

It is so ORDERED.

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

Date Signed: October 13, 2011

Date Mailed: October 13, 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:

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