

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: 20111988  
Issue No: 2012  
Case No: [REDACTED]  
Hearing Date: February 9, 2011  
Kent 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, a 3-way telephone hearing was held on February 9, 2011, with [REDACTED] indicated they instructed their client not to appear.

**ISSUE**

Did the DHS properly deny claimant's May 26, 2009 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. The hearing summary in this case prepared indicates the department has no record of every having received an MA application on behalf of claimant for May 26, 2009.
2. On May 26, 2009, [REDACTED] faxed an 1171 to [REDACTED]
3. On May 17, 2010, [REDACTED] requested a hearing.
4. [REDACTED] indicated it issued a denial notice on the basis of never having received an application.

5. [REDACTED] provided evidence of a faxed transmittal confirmation to [REDACTED] on May 26, 2009 at [REDACTED].
6. The department countered that the correct fax number was [REDACTED].
7. The Administrative Law Judge takes judicial notice of public government documents indicating that both fax numbers were [REDACTED] fax numbers and both were correct.
8. The hearing summary indicates that [REDACTED] “recently” submitted another application on behalf of claimant dated May 21, 2009 where the department called the client and indicated that information on the application was not true. This application is not “recent” but in fact older than the application at issue herein—the May 26, 2009 application. The department’s concerns regarding the “recent” May 21, 2009 application was not addressed at this hearing herein but may become an issue in the processing of this application in the future.

### **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).

DHS policy and procedure allows for an application to be faxed. See DHS BAM manual.

In this case, [REDACTED] submitted credible and substantial evidence that an 1171 fax was in fact sent to [REDACTED] on May 26, 2009. The fax transmittal indicates that it was verified as OK. This Administrative Law Judge takes judicial notice of public records which indicate that the fax number to which [REDACTED] faxed the application to in [REDACTED] [REDACTED] was indeed an operating fax number.

It must be presumed that a confirmed fax transmittal was sent as consistent with general case law regarding the mailing of a letter:

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

The DHS at the administrative hearing attempted to rebut by arguing that the fax number was incorrect. As noted in the Findings of Fact, the undersigned Administrative Law Judge takes judicial notice that both fax numbers were operational for [REDACTED] and both working numbers.

It is noted that there were some issues on the hearing summary with regards to claimant's identity and/or some other eligibility criteria. These issues were not substantively reviewed at this administrative hearing. This decision and order does not preclude the department from further pursuing these issues upon reprocessing this application.

**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 denial is REVERSED.

The department is ORDERED to reinstate claimant's May 26, 2009 MA application, and process it in accordance with its usual policy and procedure.

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*/s/*

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

Date Signed: February 22, 2011

Date Mailed: February 22, 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.

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