

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.: 2011-24415
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: April 14, 2011
DHS County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on April 14, 2011. Claimant did not appear. [REDACTED], appeared and testified for Claimant. [REDACTED] appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether Claimant cooperated with DHS' application process for Medical Assistance (MA or Medicaid) benefits?

FINDINGS OF FACT

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

1. On December 27, 2010, Claimant applied for MA benefits.
2. On January 15, 2011, DHS sent Claimant a Verification Checklist, requesting seven categories of information to be supplied by Claimant by January 25, 2011.
3. On January 24, 2011, Claimant received the Verification Checklist and wrote a letter to DHS stating:

I received you (sic) letter this afternoon concerning my Mother, [REDACTED], requiring a response by 1/25/2011. **I will respond as soon as possible to all items requested.** (Boldface added for emphasis.)

4. On January 24, 2011, Claimant called DHS twice but was not able to speak to anyone.
5. On January 26, 2011, DHS issued a Notice of Case Action denying Claimant's application.
6. On January 28, 2011, DHS received Claimant's letter from January 24, 2011, stating he would respond as soon as possible.
7. On February 28, 2011, Claimant sent DHS a written response to the Verification Checklist, providing information and documents for the seven requests in the Checklist.
8. On February 28, 2011, Claimant sent DHS a letter, and the DHS Request for a Hearing form, requesting an Administrative Hearing.
9. On March 7, 2011, DHS received Claimant's response to the Verification Checklist and the two hearing requests.

CONCLUSIONS OF LAW

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. DHS administers the MA program pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The administrative manuals are the policies and procedures DHS officially created for its own use. While the DHS manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

In this case, I find that BAM 105 is the applicable manual item. BAM 105 requires DHS to administer its programs in a responsible manner so that client rights will be protected.

Client rights must be protected by DHS, and this is stated at the outset of BAM 105:

RIGHTS AND RESPONSIBILITIES

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.

BAM 105, p. 1 (bold print in original).

I read this opening section of BAM 105 to mean that DHS must fulfill these duties, and DHS is subject to judicial review of its fulfillment of these duties. If it is found that DHS failed in any duty to the client, it has committed error.

In addition, I read BAM 105 to mean that as long as the client is cooperating, and has not refused to cooperate, DHS must act in a manner that protects client rights. On page 5, it states:

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. See Refusal to Cooperate Penalties in this section.... Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. *Id.*, p. 5.

Having identified the relevant legal authority for my decision, I now proceed to my analysis of how the law applies to the facts of the case at hand. I have reviewed all of the evidence and testimony in this case as a whole. I find and conclude that DHS erred in failing to protect the rights of a client who has been in full cooperation with them. I find and determine that Claimant's January 24, 2011, letter is a request for an extension of time in which to respond to the DHS checklist.

In fact, BAM 130, "Verification and Collateral Contacts," provides for up to three extensions of time to complete an MA application. I find and conclude that the January 24 letter was a request for an extension and it was a reasonable one. I find it is reasonable because the verification requirements of BAM 130 allow up to three extensions *of undetermined length* and, therefore, a matter of three days is reasonable within such a framework. More importantly, while it is true DHS received it on January 28, three days after the due date, I find that Claimant demonstrated substantial cooperation in doing her best to request an extension, and it should have been granted.

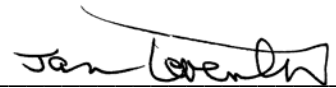
In addition I find and conclude that Claimant demonstrated consistent cooperation with DHS in this matter, and I have taken all of this into consideration in making my decision. Claimant wrote and called DHS on the same day she received the Verification Checklist, January 24. I reviewed the information Claimant provided, and it appears to be fully responsive to DHS' requests and not incomplete. I find and determine that this is not a situation where DHS' application of rigid deadlines protects client rights. I decide and determine that DHS erred in this case and a remedy is appropriate.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS erred in failing to recognize Claimant's substantial cooperation in the application process and in fulfilling its duty to protect clients' rights. I find and conclude that DHS acted incorrectly and is REVERSED.

DHS is ORDERED to reinstate Claimant's MA application and process it, including acceptance of Claimant's response to the Verification Checklist. DHS is ORDERED to provide Claimant with all application procedures including review by the Medical Review Team, and to provide Claimant with benefits effective December 27, 2010, her application date. All steps taken by DHS shall be taken in accordance with all DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is REVERSED. IT IS ORDERED that DHS shall reinstate and reprocess Claimant's MA application, accept Claimant's responses to the Verification Checklist, refer her application to the Medical Review Team as appropriate, and provide appropriate MA benefits to her effective December 27, 2010, the date of Claimant's application. All steps shall be taken in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 21, 2011

2011-24415/JL

Date Mailed: April 25, 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.

JL/pf

cc:

