

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-40854
Issue No.: 2007
Case No.: [REDACTED]
Hearing Date: July 27, 2011
County: Ottawa

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on Wednesday, July 27, 2011, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's authorized representative, [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny the Claimant's application for Medical Assistance (MA-P)?

FINDINGS OF FACT

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

1. On December 28, 2010, L&S filed a filing form for the deceased Claimant with no notice of appearance of an authorized representative included.
2. On January 13, 2011, the Department case worker sent [REDACTED] a Notice of Missing Information, DHS-330, and Verification Checklist, DHS 3503. Department Exhibit A.
3. On January 24, 2011, [REDACTED] submitted an application with an appearance of authorized appearance and written verification of an assigned court representative dated January 7, 2011. Client Exhibit 1-4.
4. On May 20, 2011, the Department sent [REDACTED] a denial notice.

5. On May 20, 2011, the Department received a hearing request from [REDACTED] contesting the Department's negative action.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

WHO MAY BE AN AUTHORIZED REPRESENTATIVE (AR)

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-330, Notice of Missing Information, to the individual 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. BAM 110, pp. 8-9.

Persons Providing Medical Care

MA Only

An authorization to represent is a form of a power of attorney. When a person who gave the authorization dies, the power of attorney ends. After death, the person does not exist as a legal entity, so no one can represent the person. However, if a person dies while the application is pending, the application should be processed.

An estate may be created to handle the remaining business and financial issues that were outstanding at the time of death. Only a probate court can create a decedent's estate. The court will also appoint someone to act as a representative of the estate.

A court, agency or guardian **legally** responsible for a client must be identified as an authorized representative (AR) by Type on Bridges. BAM 110, pp. 9 & 10.

Signature Requirement

All Programs

Before the application or DHS-1171 Filing Form, is registered, it must be signed by the client or authorized representative (AR).

The signature(s) establishes both of the following:

- Client and/or AR understands their rights and responsibilities.
- Client and/or AR prepared the application or filing form truthfully under penalty of perjury. BAM 115, p. 2.

Additionally, [REDACTED] filed a filing form on December 28, 2010, as cited in the hearing summary. A copy of the filing form was not included in the hearing packet. On January 13, 2011, the Department caseworker sent [REDACTED] a Notice of Missing Information, DHS-330, and Verification Checklist, DHS-3503. Copies of the aforementioned documents were not included in the hearing packet for the Administrative Law Judge to review, but the information was probably due in 10 days according to the usual policy.

On January 24, 2011, [REDACTED] submitted an application with an appearance of authorized representative and written verification of an assigned court representative dated January 7, 2011. A copy of the authorized representation and assigned court representative was provided in the authorized representative's hearing request. [REDACTED] did provide the required information within the 10-day time limit requested by the

Department. On May 20, 2011, the application was denied by the Department caseworker due to no valid need as the Claimant was deceased in September 2010, which was four months prior to the application date used of January 24, 2011, as cited in the hearing summary. A denial notice was not submitted as part of the hearing packet.

Apparently, the filing form submitted to the Department by [REDACTED] on December 28, 2010, was not registered, even though the Department caseworker sent a Notice of Missing Information, DHS-330, and Verification Checklist, DHS-3503, on January 13, 2011. Even though [REDACTED] complied with the request for information in a timely manner, the application was still denied for no valid need as the Claimant was deceased in September, which was four months prior to the application date used by the Department of January 24, 2011.

In the present case, the Department has not established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with Department policy when it denied the Claimant's application submitted by a filing form on December 28, 2011, to preserve the retroactive date of September 2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly when the Department denied the Claimant's MA-P application.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate the reprocessing of the Claimant's MA-P application filed on December 28, 2010, with retroactive benefits to September 2010 with the information provided on January 24, 2011.



Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 21, 2011

Date Mailed: December 21, 2011

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CGF/pf

cc:

