

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: 2011-5038
Issue No: 2006
Case No: [REDACTED]
Hearing Date:
December 15, 2010
Genesee County DHS (6)

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 December 15, 2010. Claimant personally appeared and testified. Claimant was represented at the hearing by [REDACTED]

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance and retroactive Medical Assistance benefits?

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 May 27, 2009, claimant filed an application for Medical Assistance and retroactive Medical Assistance coverage back through April 2009.
- (2) On November 19, 2009, the application for Medical Assistance was approved for the Adult Medical Program DHS-1605 and a notice of case action was sent to the client.
- (3) On December 7, 2009, department of Human Services 1605 notice of case action was returned to the department by US Mail as return to sender, no such address and unable to forward.
- (4) On December 14, 2009, the DHS 3503 was sent to the claimant.

- (5) On December 15, 2009, a faxed copy of the DHS 3503 MRT packet was sent to [REDACTED]
- (6) On January 4, 2010, the case was transferred to [REDACTED] worker for [REDACTED] consideration.
- (7) On September 7, 2010, the hearing was held in front of Administrative Law Judge William A. Sundquist.
- (8) Judge Sundquist determined that [REDACTED] did not receive notice of positive case action, MA application filed on May 27, 2009, which was the subject of the hearing. Judge Sundquist ordered that the DHS would notify [REDACTED] of the positive or negative case action within 10 days of the course of the DHS policy requirements and determined that it was not necessary for the Administrative Law Judge to decide the matter that was in dispute. Judge Sundquist determined that pursuant to MACR 400.906 and 400.903, claimant's hearing request is hereby dismissed because the claimant is no longer grieved by department action.
- (9) L&S Associates submitted a DHS-1171 application for Medical Assistance and a DHS-3243 for retroactive Medical Assistance on May 27, 2009, on behalf of claimant.
- (10) [REDACTED] sent a faxed inquiry on December 2, 2009, which prompted the worker to fax a verification checklist to them.
- (11) A faxed checklist was sent December 15, 2009, with a due date of December 28, 2009.
- (12) [REDACTED] requested an extension with the last extension due date of January 27, 2010.
- (13) The Medical Assistance benefits were denied on January 27, 2010, but BRIDGES did not send a notice as the Adult Medical Program was active.
- (14) An RCH determination was made on the same day and was denied for failure to return verifications for Medical Assistance.
- (15) A notice was sent to client on January 27, 2010.
- (16) An MSA 2565 was completed but it was unclear whether it was sent.
- (17) DHS caseworker contacted Michael Jankowski of [REDACTED] for a prehearing conference on October 14, 2010.

- (18) At that Family Independence Manager [REDACTED] indicated that [REDACTED] may have sent the verifications in [REDACTED] after the final extension, but the information went to another worker in another office.
- (19) The meeting was cut short and [REDACTED] said that he would call back.
- (20) As of October 20, 2010, there was no return call.
- (21) On January 27, 2010, the department caseworker sent claimant and [REDACTED] [REDACTED] notice that the application was denied based upon failure to provide verification information.
- (22) On October 11, 2010, [REDACTED] filed a request for a hearing to contest the department's negative action and stated that they have never received an application eligibility notice. In spite of Administrative Law Judge Sundquist prior order.

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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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, Item 105, p. 1.

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM, Item 105, p. 5.

Client Cooperation

The client is responsible for providing evidence needed to prove disability or blindness. However, you must assist the client when they need your help to obtain it. Such help includes the following:

- . Scheduling medical exam appointments
- . Paying for medical evidence and medical transportation
- . See BAM 815 and 825 for details. BEM, Item 260, p. 4.

A client who refuses or fails to submit to an exam necessary to determine disability or blindness **cannot** be determined disabled or blind and you may deny or close the case. BEM, Item 260, p. 4.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. BAM, 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. BAM, Item 105, p. 5.

FAP Only

Do **not** deny eligibility due to failure to cooperate with a verification request by a person **outside** the group. In applying this policy, a person is considered a group member if residing with the group and is disqualified. BAM, 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. BAM, 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. BAM, Item 105, p. 7.

Income reporting requirements are limited to the following:

- . Earned income
 - .. Starting or stopping employment
 - .. Changing employers
 - .. Change in rate of pay
 - .. Change in work hours of more than 5 hours per week that is expected to continue for more than one month
- . Unearned income
 - .. Starting or stopping a source of unearned income
 - .. Change in gross monthly income of more than \$50 since the last reported change. BAM, Item 105, p. 7.

See BAM 220 for processing reported changes.

Other reporting requirements include, but are **not** limited to, changes in:

- . Persons in the home
- . Marital status
- . Address and shelter cost changes that result from the move
- . Vehicles

- . Assets
- . Child support expenses paid
- . Health or hospital coverage and premiums
- . Day care needs or providers. BAM, Item 105, pp. 7-8.

For TLFA only, the client must report to the specialist any month the work requirement is not fulfilled.

Explain reporting requirements to all clients at application, redetermination and when discussing changes in circumstances. BAM, 105, p. 8.

Verifications

All Programs

Clients must take actions with in their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, Item 105, p. 8.

LOCAL OFFICE RESPONSIBILITIES

All Programs

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees. BAM, Item 105, p. 8.

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. BEM 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. BAM, Item 130, p. 1.

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

Verification is **not** required:

- . when the client is clearly ineligible, or
- . for excluded income and assets **unless** needed to establish the exclusion. BAM, Item 130, p. 1.

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 Check list, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2.

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

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment.

Exception: Alien information, blindness, disability, incapacity, inability to declare one's residence and, for FIP only, pregnancy must be verified. Citizenship and identity must be verified for clients claiming U.S. citizenship for applicants and recipients of FIP, SDA and MA. BAM, Item 130, p. 3.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. BAM, Item 130, p. 4.

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. BAM, 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. BAM, Item 130, p. 4.

In the instant case, the department concurred on the record that no negative action letter was sent to claimant or ██████████ denying Medical Assistance benefits. Claimant was approved for the Adult Medical Program but no determination was ever made as to claimant's eligibility for Medical Assistance on the original application. However, ██████████ did have actual notice of the fact that they were to provide verification information and that the Medical Assistance benefit application was denied January 27, 2010. The original notice of case action DHS 1605 was returned to the department by US Mail as return to sender, no such street address and unable to forward.

In this case, the claimant/representative submitted an application on May 27, 2009. The notice of denial of benefits was sent to the claimant on December 7, 2009, but was returned to the department as undeliverable. The claimant's representative was aware of the denial as evidenced by the February 15, 2010, hearing request even though it did not receive a copy of the denial notice. Importantly, the representative is not protesting the MRT determination finding the claimant not disabled and thus the denial of benefits. Instead, the representative seeks a currently dated denial in order to apply for other programs which have second opportunity to prove disability on claimant's behalf. Pertinent department policy and applicable law dictates that:

- The AHR or if none, the client has 90 calendar days from the date of the written notice of case action to request a hearing. BAM, Item 600, p.5.

- A claimant shall be provided 90 days from the mailing of the notice in R 400.902 to request a hearing. R 400.904(4).
- The claimant shall be provided reasonable time, not to exceed 90 days in which to appeal an agency action. 45 CFR 205.10.
- The department must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing. 42 CFR 431.221.

Department policy also indicates that the application forms and each written notice of case action inform clients of their right to a hearing. These include an explanation of how and where to file a hearing request and the right to be assisted by or represented by anyone the client chooses. The client must be sent a written notice by case actions effecting eligibility or amount of benefits. When a case action is completed, must specify:

- The action being taken by the department; and
- The reason for the action; and
- The specific manual item that cites the legal basis for the action or the regulation of law itself. See BAM 220, Item 600, p. 1.

In this case, the department did provide the client with notice as is required by department policy. The notice did return to the department as undeliverable, however, policy requires that the notice be sent and if claimant address changed he was charged with notifying the department within 10 days of that change. The representative contends, without citing any authority, that it is entitled to a currently dated denial as opposed to the previous denial. The parties acknowledged that the department was supposed to send the denial notice to the authorized representative. However, the representative is not entitled to a hearing solely on this issue when they are not contesting the MRT determination. Ultimately, because the claimant/representative is not contesting the department decision effecting eligibility or benefit levels, the request for the hearing is hereby DISMISSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the claimant/representative is not contesting a department decision effecting eligibility or benefit levels. The request for a hearing is hereby DISMISSED.

/s/

Landis Y. Lain
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 2, 2011

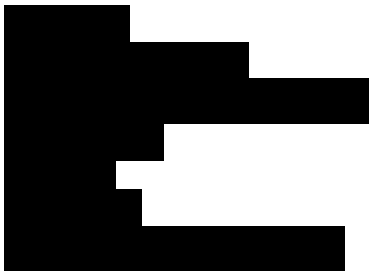
Date Mailed: March 3, 2011

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.

LYL/alc

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