

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

IN THE MATTER OF:



Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on August 16, 2011. After due notice, a telephone hearing was held on October 12, 2011. Claimant's representative personally appeared and provided testimony.

ISSUE

Whether the department properly refused to process Claimant's application for Medical Assistance (MA) and Retro-MA?

FINDINGS OF FACT

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

1. Claimant submitted an application on April 28, 2010 for MA and Retro-MA. (Hearing Summary).
2. On May 13, 2010, Claimant's request was registered and the department mailed Claimant a DHS-330 and DHS-723 requesting a signed authorization to represent Claimant, due by May 23, 2010. (Hearing Summary; Department's Exhibit 2).
3. On May 20, 2010, Claimant's representative faxed a request to the department requesting an extension to obtain Claimant's signature. (Department's Exhibit 3).
4. On June 2, 2010, Claimant's representative submitted a signed Release of information and Authorization to Represent from Claimant. (Department's Exhibit 4).

5. Claimant submitted a hearing request on August 16, 2011, protesting the refusal of the department to process Claimant's MA and Retro-MA application. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, Mich Admin Code, Rules 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code, Rule 400.903(1). The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Policy directs the department that an application or filing form, whether faxed, mailed or received from the internet must be registered with the receipt date, if it contains at least the following information:

- Name of the applicant.
- Birth date of the applicant (not required for FAP).
- Address of the applicant (unless homeless).
- Signature of the applicant/authorized representative. BAM 105 (effective ___).

If an application/filing form does not contain the minimum information listed above, the application/filing form is sent back to the client along with a DHS-330, Notice of Missing Information, informing the client of the missing information. BAM 105.

An application or DHS 1171 Filing Form will not be registered, until it is signed by the client or authorized representative (AR). Note: 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.

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 the department must:

- Register the application as a request if it contains a signature.

- Send a DHS-723, Incomplete Application Notice, to the agency or the individual who completed the application.
- Send a DHS-330, Notice of Missing Information, to the client 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 (effective 2-1-2010).

In this case, Claimant submitted an unsigned application to the department on April 28, 2010. On May 13, 2010, the department mailed out the DHS-723, Incomplete Application Notice and the DHS-330, Notice of Missing Information to the Claimant, explaining the need for a valid signature and instructing Claimant that he had 10 days to provide the signature.

Claimant's representative testified that on May 20, 2010, a request for an extension had been faxed to the department requesting an extension on the 10 day time frame to provide the signed authorization and cites BAM 130 for support of his position. BAM 130 states that the department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. However, this Administrative Law Judge finds that BAM 130 is not controlling in this case because the department was not requesting a verification, but was in fact requesting a valid signature authorizing someone to act on Claimant's behalf because the department had received an unsigned application. Therefore, this argument does not have merit.

Claimant's representative then argued that the department's policy contradicted the Child Welfare Act. However, Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Lastly, Claimant's representative argues that an applicant and an authorized representative are interchangeable, and because an authorized representative signed the application, the authorized representative stands in the shoes of the applicant and the applicant's signature is not needed. The Administrative Law Judge finds this

argument without merit because policy specifically defines an applicant and an authorized representative as two different entities.

Therefore, based upon the competent, material and substantial evidence on the whole record, the department properly registered the application on May 13, 2010. Because the application did not contain a signature, the department properly mailed out the DHS-723 and DHS-330 informing Claimant that he had 10 days to send a signed application or written documentation authorizing Claimant's representative to act on his behalf. Because Claimant's representative did not submit the required signed authorization until June 2, 2010, well after May 23, 2010, the department properly did not process the application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly did not process Claimant's unsigned application dated April 28, 2010. Accordingly, the department's actions are AFFIRMED. It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/13/11

Date Mailed: 10/13/11

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 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.

VLA/ds

