

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: 201187
Issue No: 2000/2006
Case No: [REDACTED]
Hearing Date: March 15, 2011
Antrim 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 March 15, 2011. Claimant did not appear. Claimant was represented by [REDACTED]. Claimant had withdrawn the hearing request which DHS policy does not recognize.

ISSUES

1. Did L & S file a timely hearing request?
2. Did the DHS properly deny claimant's April 6, 2010 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. On April 6, 2010, claimant applied for MA. [REDACTED] testified that the signature on the last page was an employee of [REDACTED] although it does not state that [REDACTED] was representing claimant.
2. On April 9, 2010, the DHS sent a Verification Checklist to L & S with a due date of April 20, 2010. [REDACTED] received the checklist.
3. The Hearing Summary indicates that the department did not receive the verifications by the due date of April 29, 2010 and denied the application.
4. [REDACTED] presented evidence at the administrative hearing of a confirmed fax sent to the department on April 20, 2010 with an extension request and with enclosed verifications.

5. On April 30, 2010, [REDACTED] sent a second record extension request suggesting a new due date of May 10, 2010.
6. On May 7, 2010, [REDACTED] sent a third fax indicating that all verifications should be complete.
7. The department indicated that the fax number was correct.
8. All of [REDACTED] faxes were confirmed.
9. The department stipulated that the April 29, 2010 denial notice was not sent to [REDACTED]
10. On September 3, 2010, [REDACTED] requested a hearing.
11. On January 31, 2011, claimant signed a hearing request withdrawal stating: "I have moved out of state." SOAHR refused to accept the withdrawal on the grounds that the representative did not sign the hearing withdrawal and the claimant did not sign a statement withdrawing representation from her case.

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).

ISSUE 1

Individuals have a right to request a hearing within a 90 day window from the notice date. This is generally applied to all programs, including MA.

In this case, the department stipulated that it failed to notify [REDACTED] of the denial issued April 29, 2010. [REDACTED] hearing request of September 3, 2010 consequently was not untimely as the 90 day window did not begin to run and was tolled. Thus, this Administrative Law Judge finds jurisdiction proper.

It is noted that in the interim, claimant signed a hearing request withdrawal which was received January 31, 2011. Claimant states on the withdrawal: "I have moved out of state." However, DHS changed its policy as of recent to indicate that in a situation where there is an authorized representative, hearing request withdrawals cannot be accepted where the AHR requested the hearing unless the client first submits a written signed notice that she/he wishes to revoke the authorization to represent. BAM 600, pg 21. Reasonable or not, policy does not allow an individual to withdraw under the

instant facts and circumstances and thus, the hearing proceeded with a substantive review as [REDACTED] is the authorized hearing representative and had not withdrawn.

ISSUE 2

In this case, policy under BAM Item 130 indicates that where there are verification requests, the department is to “extend the time limit up to three times.” BAM Item 130, pg 5.

A review of the facts herein indicates that the department denied the application after one Verification Checklist with one record extension. [REDACTED] presented substantial and credible evidence of having requested an extension on two occasions with the follow-up facts on the third indicating that the record should be complete. Under BAM Item 130, [REDACTED] was entitled to request the extensions and the department did not have the authority to deny the application prior to at least three extension requests. Thus, the department’s actions are reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides:

1. As the department did not issue a denial notice to [REDACTED] hearing request was not untimely and thus, jurisdiction was proper.
2. The department incorrectly denied claimant’s April 6, 2010 MA application and thus, on this issue, the department is REVERSED. The department is Ordered to reinstate claimant’s April 6, 2010 application. If the department does not have in its record all necessary verifications, the department is Ordered to request any outstanding verifications of [REDACTED] giving [REDACTED] up to three extensions to provide the same. It is so Ordered.

/S/

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

Date Signed: April 4, 2011

Date Mailed: April 4, 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.

JGS/db

cc:

