

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 20119908

Issue No: 2006

Case No: [REDACTED]

Hearing Date:

April 5, 2011

Shiawassee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on December 1, 2010. After due notice, a telephone hearing was held on Tuesday, April 5, 2011. The Claimant was represented during the hearing by [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Medical Assistance (MA) eligibility?

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 February 11, 2010, the Claimant's representative submitted an application for Medical Assistance (MA) and retroactive Medical Assistance (MA) on her behalf.
2. On May 28, 2010, the Department sent the Claimant a Verification Checklist with a due date of June 7, 2010. The Department requested verification of the Claimant's income.

3. On June 8, 2010, the Department denied the Claimant's application for Medical Assistance (MA) for failure to provide information necessary to determine her eligibility to receive benefits.
4. The Department granted three extensions to the due date for income verification and the final due date was July 7, 2010.
5. The Department received the verification documents from the Claimant's representative on July 26, 2010.
6. The Department received the Claimant's request for a hearing on December 1, 2010, protesting the denial of Medical Assistance (MA).

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

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600. The State Office of Administrative Hearings and Rules ("SOAHR") may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments
- Reduction in the amount of program benefits or service
- Suspension or termination of program benefits or service
- Restrictions under which benefits or services are provided
- Delay of any action beyond the standard of promptness

- For FAP only, the current level of benefits or denial of expedited service

BAM Item 600, page 1. Additionally, for MA purposes, SOAHR may grant a hearing on other issues not applicable here, such as community spouse income, allowance, asset assessment, etc.

The Claimant's representative submitted an application for Medical Assistance (MA) with retroactive coverage. On May 28, 2010, the Department sent the Claimant a Verification Checklist with a due date of June 7, 2010. The Department requested verification of the Claimant's income. The Department granted three extensions to the due date for income verification and the final due date was July 7, 2010.

The Department received the Claimant's verification documents on July 26, 2010.

On June 8, 2010, the Department denied the Claimant's application for Medical Assistance (MA) for failure to provide information necessary to determine her eligibility to receive benefits. The Department stipulated that this notice of case action was not sent to the Claimant's representative.

The Department received the Claimant's request for a hearing on December 1, 2010, protesting the denial of Medical Assistance (MA).

Pertinent department policy and applicable law dictates that:

- The AHR or, if none, the customer 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 agency 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.

This hearing request is **HEREBY DISMISSED** because the request for a hearing was not made within 90 days of the date of notice.

On December 10, 2010, the Department sent the Claimant's representative a copy of it denial of the Claimant's application for Medical Assistance (MA) from June 8, 2010. The Claimant's representative submitted the request for a hearing in response, protesting the denial of Medical Assistance (MA).

Department policy requires that the client receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

- The action being taken by the department; and
- The reason(s) for the action; and
- The specific manual item(s) that cites the legal base for an action, or the regulation, or law itself. See BAM 220. BAM, Item 600, page 1.

In this case, the Department provided the client with notice as is required by Department policy. The notice did not return to the department as undeliverable. The Claimant's representative is not entitled to independent notice of the denial of benefits or an administrative hearing as a result of the Department sending a second copy of the notice of case action.

There are two types of written notice: adequate and timely.

A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). Adequate notice is given in the following circumstances:

- Approval/denial of an application.
- Increase in benefits. BAM Item 220, pages 1-2.

The Claimant is not entitled to a hearing based on the Department sending her representative a copy of its denial of her application for Medical Assistance (MA) on December 10, 2010, because the actual notice of case action was sent to the Claimant on June 8, 2010. Therefore the Claimant's request for a hearing is **DISMISSED**.

Furthermore, if the Claimant's request for a hearing was found to be timely, the Department did not receive the Claimant's verification documents in a timely manner.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

Clients are allowed ten calendar days to provide the verifications requested by the Department. BAM 130. The Department should send a negative action notice when the client indicates a refusal to provide the verification, or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130. The Department should extend the time limit up to three times if the client cannot provide the verification despite a reasonable effort. BAM 130.

In this case, the due date for submission of verification documents was June 7, 2010. The Department granted three extensions for submission of verification documents and the final due date was July 7, 2010. The Department received the Claimant's verification documents on July 26, 2010, well after the final due date. Therefore, the Department acted in accordance with policy when it denied the Claimant's application for Medical Assistance (MA) for failure to provide information necessary to determine her eligibility to receive benefits.

The Representative is not entitled to a hearing based on the copy of the Notice of Case Action it received on December 10, 2010. The representative stands in the shoes of the client and does not retain rights which are separate from the client's. The Claimant's right to a hearing expired 90 days after the Department notified her that her application for Medical Assistance (MA) on June 8, 2010. The Claimant's Request for Hearing is **DISMISSED** for lack of timeliness.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the Request for Hearing is **DISMISSED**.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 17, 2011

Date Mailed: May 18, 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 60 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.

KS/tg

cc:

