

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

IN THE MATTER OF:



New Reg. No: 201243422
Old Reg. No.: 201221944
Issue No: 2006
Case No: [REDACTED]
Hearing Date February 14, 2012
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

ORDER OF RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 24.287(1) and 1993 AACRS R 400.919 upon the request filed by Claimant's authorized representative requesting reconsideration on July 13, 2012.

ISSUE

Was mailing of Verification Check List (VCL) received by IMN on September 6, 2012 established?

FINDINGS OF FACT

The Findings of Fact established in the original Decision and Order are hereby incorporated:

1. On September 6, 2011, Claimant applied for Medicaid (MA-P), was denied on September 26, 2011, and requested a hearing on December 1, 2011.
2. On September 6, 2011, the Department of Human Services (DHS) sent the Claimant and his representative a VCL with a due date of September 16, 2011; the VCL was not timely submitted.
3. The DHS representative stated that she procedurally notated her VCL file copy, after the mailings, on the top of the document, "cc: IMN," as a reminder that a copy was sent to IMN. (DHS Exhibit 1).
4. On November 15, 2011, IMN informed the DHS that it had not received a copy of the VCL and requested a copy.
5. On November 15, 2011, the DHS file copy of the VCL information was notated "cc: IMN" was forwarded to IMN.

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).

The IMN representative testified that she did not received a copy of the VCL sent on September 6, 2012 by DHS. This sets up the burden on the DHS to go forward and that a copy of the VCL was sent to IMN.

It is well settled law, where proof of proper mailing (Name of addressee, address and U.S. postage stamp on envelope) is shown, that it will be presumed that the letter was received in the ordinary course of public mail; and that when a party denies receipt, the only effect is to revise an issue of fact for a decision-maker.

The evidence of record does not establish a presumptive mailing of the VCL to IMN. And even if it did, IMN rebutted the presumption by denying VCL-receipt.

Also, the DHS representative testified that after she sent a copy of the VCL on September 6, 2012, she notated on her file copy, "cc: IMN," as a reminder that she had sent IMN a copy. But, the file copy forwarded to IMN on October 15, 2011 did not have the notation. (Claimant Exhibit A, Page 2).

Based on the evidence of record, this Administrative Law Judge (ALJ) finds insufficient evidence that IMN received the VCL on September 6, 2011.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the original decision was incorrect, and accordingly, the original decision is reversed.

According, MA-P denial of Claimant's September 6, 2011 MA-P application is **REVERSED** and reinstatement and processing of the application is SO ORDERED.

/s/ _____
William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 23, 2012

Date Mailed: July 24, 2012

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.

WAS/tb

cc:

