

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

IN THE MATTER OF:



Reg. No: 201256431
Issue No: 2006
Case No: [REDACTED]
Hearing Date: September 5, 2012
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 September 5, 2012. The claimant's authorized representative (AR), Ms. [REDACTED] of [REDACTED] appeared on behalf of the claimant. The claimant's mother also appeared and provided testimony.

ISSUE

Whether the department properly closed the claimant's Medical Assistance (MA) case for failure to cooperate by not submitting the requested verifications?

FINDINGS OF FACT

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

1. The claimant submitted an application for MA benefits, requesting retro active coverage to December 2008. (Claimant Exhibit A).
2. There was a delay on processing the application.
3. Once the application was processed, the department sent the claimant a verification checklist on February 7, 2012, requesting verification of employment with a due date of February 17, 2012. (Department Exhibit 1).
4. On February 15, 2012, the claimant's AR sent the department a statement from the claimant's mother stating that it was her and not her son who worked for the employer in question along with a letter requesting contact if additional verification was required. (Claimant Exhibit A).

5. On March 1, 2012, the department sent the claimant and his AR a notice of case action (DHS 1605) stating that his MA application was being denied for failure to return the requested verifications. (Department Exhibit 2).
6. The claimant's AR filed a hearing request on May 25, 2012, protesting the denial of the application.

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, MAC R 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. MAC R 400.903(1).

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 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 Program Reference Manual (PRM).

In relation to a claimant's responsibilities in obtaining the verifications needed for the department to make a determination as to eligibility or continuing eligibility, policy states as follows:

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 105.

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 105.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM 105.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM 105.

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

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 Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130.

The client must obtain required verification, but you must assist if they need and request help.

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. BAM 130.

Timeliness Standards

FIP, SDA, CDC, FAP

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. BAM 130.

Exception: For CDC only, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

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 130.

In the case at hand, the claimant was sent a verification checklist (VCL) with a due date of February 17, 2012. The department was requesting verification of the claimant's employment at [REDACTED] [REDACTED] from the months of December 2008, January, and February 2009. This request arose due to information provided on the claimant's application. At the hearing, the claimant's mother credibly testified that her son had never worked at the Home Depot and that she was the one who was employed there. The claimant's mother and AR opined that there must have been a mistake on the application that listed the claimant as being employed at [REDACTED] [REDACTED]. During the time period that the verifications were requested, the claimant was out of state as he is on active duty in the military. Because the claimant was unavailable, the claimant's AR provided a statement regarding the employment form the claimant's mother as well as a letter requesting contact from the department if the statement provided would not suffice. The department never contacted the claimant's AR and did not issue a subsequent verification checklist. Given the unavailability of the claimant, this Administrative Law Judge finds that the claimant's AR took reasonable measures to comply with the verification request of the department. Furthermore, the above-cited policy states that the department must assist the claimant in obtaining verification if such assistance is requested. The claimant's AR clearly requested contact regarding the verification none was made by the department. Therefore, the Administrative Law Judge finds that the department should have provided assistance by contacting the claimant's AR regarding the suitability of the provided verifications. Accordingly, the department did not properly deny the claimant's MA application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed the claimant's MA case for failure to cooperate by not submitting the requested verifications.

Accordingly, the department's actions are **REVERSED**.

It is HEREBY ORDERED that the department shall issue a new verification checklist, allow the claimant to submit the necessary verifications, and provide assistance if requested. The department shall then initiate a determination of the claimant's eligibility for MA benefits as of the date of the original application (December 2008), if the claimant is found to be otherwise eligible, the department shall issue benefits in accordance with policy and, if applicable, issue any past due benefits due and owing that the claimant is otherwise eligible to receive.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 11, 2012

Date Mailed: September 12, 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 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.

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