

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201257098
Issue No: 2006
Case No: [REDACTED]
Hearing Date: August 29, 2012
Ottawa 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 August 29, 2012, 2012. The claimant's authorized representative (AR), Ms. [REDACTED] of [REDACTED] & [REDACTED] appeared on behalf of the claimant. The claimant 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 on December 8, 2011, requesting retro active coverage to September 2011.
2. The claimant was sent a verification checklist on December 20, 2011 requesting (among other verifications) verification of a 401K with a due date of January 3, 2012. (Department Exhibits 59-60).
3. All of the requested verifications were not returned and as such, the department denied the claimant's application and sent the claimant a notice of case action (DHS 1605) on January 12, 2012. (Department Exhibits 46-47).
4. The department subsequently discovered that [REDACTED] & [REDACTED] was not entered as the claimant's authorized representative (AR) and was

therefore not sent a copy of the verification checklist. (Department Exhibits 41-42).

5. After the omission of the inclusion of the AR was discovered, the AR requested that the verification checklist be faxed over so that the AR could attempt to obtain the verification. (Department Exhibits 41-42).
6. The AR then requested several extensions, the last of which was granted until April 4, 2012.
7. On April 3, 2012, the claimant's AR faxed over a letter to the department which stated that a document was attached which the AR believed would satisfy the verification request regarding the claimant's 401K. The AR asked to be contacted if the verification was not satisfactory and additionally requested assistance in obtaining that verification. (Department Exhibits 35-37).
8. On April 4, 2012, the claimant's AR was informed verbally by the department that the application was being denied for failure to verify the 401K. (Department Exhibit 4).
9. On May 29, 2012, the claimant's AR filed a hearing request protesting the denial of the MA application.

CONCLUSIONS OF LAW

As a preliminary matter, the claimant's AR presented exhibits for admission at the time of the hearing. The department representative objected to the admission of the document marked as Claimant Exhibit A based on a lack of foundation. This Administrative Law Judge overrules the objection from the department as there was sufficient testimony presented to build a foundation for the admission of the evidence. The Administrative Law Judge does note, however, that the issue at hand in this case pertains to the submission of verifications by the due date. As such, since the exhibits offered by the claimant were submitted long after the verification due date, while they will be admitted into evidence, they are not particularly germane to the issue at hand of a failure to cooperate with the verification process.

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's AR submitted a letter and "Verification of 401K" statement to the department on April 3, 2012 (see Department Exhibits 35-36). In the letter, the claimant's AR stated that she believed that the document submitted completed the verification checklist and requested contact if the document was not sufficient. The claimant's AR additionally requested that the department assist in obtaining the verification if the document was not sufficient. There was no evidence presented that there was any additional contact with the department subsequent to the submission of the document in question, nor was there any evidence presented that the department assisted the claimant in obtaining the requested verification. The above-cited policy states that the department is to assist the claimant in obtaining the requested verification if requested by the claimant. Additionally, this Administrative Law Judge finds that the claimant (through the claimant's AR) did make reasonable efforts to provide the verifications in question. Accordingly, the department did not act in accordance with policy in denying the claimant's application on the basis of a failure to cooperate with obtaining the requested verifications.

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 allow the claimant to submit any additional 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 8, 2011), 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 21, 2012

Date Mailed: September 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 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.

CSS/cr

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