

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2012-60389
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: September 26, 2012
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Wednesday, September 26, 2012. The Claimant did not appear. [REDACTED] of [REDACTED] [REDACTED] appeared and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED]

ISSUE

Whether the Department notified the proper parties of the denial of the Claimant's March 27, 2009 Medical Assistance ("MA") application?

FINDINGS OF FACT

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

1. On March 27, 2009, the Department registered a Medical Assistance ("MA") application on behalf of the Claimant listing L & S as the Authorized Representative ("AR"). (Exhibit 4)
2. On May 29, 2009, the Department sent a Verification Checklist to the Claimant/AR requesting in part, the Claimant's driver's license, birth certificate, and medical records. (Exhibit 1)

3. On Jun 19, 2009, the Department received and granted an extension request from L & S. (Cl. Exhibit A)
4. On July 1, 2009, L & S faxed the Department a letter stating in relevant part that additional medical records could not be provided, nor would the birth certificate or driver's license be submitted. (Exhibit 2)
5. On October 23, 2009, the Department received a signed Authorization for Patient Representation and Retention Agreement from Advomas. (Exhibit 3)
6. On December 23, 2009, the Department notified the Claimant and Advomas of the denial of the March 27th application based on the failure to submit the requested verifications. (Exhibit 5)
7. On February 17, 2012, the Department received a request for hearing from L & S seeking the status of the March 29, 2009 application and requesting a currently dated denial or the re-registering/processing of the application for a determination regarding disability.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

The Family Independence Program ("FIP") was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department, formerly known as the Family Independence Agency, administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children ("ADC") program effective October 1, 1996.

The Food Assistance Program ("FAP"), formerly known as the Food Stamp program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations ("CFR"). The Department, formerly known as the Family Independence Agency, administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3001 through R 400.3015.

The Medical Assistance ("MA") program is established by the 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, formerly known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program ("AMP") is established by 42 USC 1315, and is administered by the Department of Human Services pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (“SDA”) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services, formerly known as the Family Independence Agency, administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3151 through R 400.3180.

The Child Development and Care (“CDC”) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, Rules 400.5001 through R 400.5015.

Application for MA benefits may be made on behalf of a client by the spouse, parent, legal guardian, adult child, stepchild, specified relative, or any other person provided the person is at least age 18 or married. BAM 110 (2009), p. 8. If the person is not a spouse, parent, legal guardian, adult child, stepchild, or specified relative, the person must have a signed authorization to act on behalf of the client, by the client, client’s spouse, parent(s), or legal guardian. BAM 110, p. 9. The application form must be signed by the client or the individual acting as the Authorized Representative (“AR”). BEM 110, p. 16.

Any person, regardless of age, or his authorized representative, may apply for assistance. BAM 110, p. 4. An AR is a person who applies for assistance on behalf of the client and/or otherwise acts of his behalf. BAM 110, p. 7. For MA purposes, an AR must be an adult child or stepchild; a specified relative; designated in writing by the client; court appointed; or a representative of an institution (such as jail or prison) where the client is in custody. BAM 110, p. 8

For MA purposes, the identity of U.S. citizens age 16 and above must be verified. BEM 221 (2009), p. 1.

In this case, the Department received a MA application in March 2009 along with a signed Authorization to Represent designating L & S as the AR. Pursuant to policy, the Department sent requested verifications necessary to determine eligibility to the AR. On July 1, 2009, the AR informed the Department that it was unable to secure the requested verifications which included the Claimant’s driver’s license and birth certificate. At this point, the AR was aware, or should have known, that the application would be denied based on the failure to submit verification of the Claimant’s identity.

On October 23, 2009, the Department received an Authorization for Patient Representation from Advomas. The Department testified that a new application was not submitted and that the March 2009 application was the only pending application. On December 23, 2009, the Department denied the application based on the failure to

submit the requested verifications. The denial was sent to the Claimant and to Advomas.

On February 17, 2012, the Department received a written request for hearing from L & S requesting the Department to process (or re-process) the March 2009 application, or conversely, provide a currently dated denial. At issue in this case, is whether the Department was required to send the December 2009 denial notice to L & S despite receiving a second Authorization to Represent from Advomas regarding the same application. The Claimant did not notify L & S of this new appointment nor did the Department. Instead, the Department removed L & S as the Authorized Representative and replaced it with Advomas. When the application was denied, only the Claimant and Advomas received notification. Policy is silent regarding this particular issue; however, given that L & S initiated the application, they, as opposed to Advomas, should receive the Notice of Case Action as there was no written revocation of L&S as the AR. L&S was aware, or should have been aware, that the application would be denied based on the failure to submit verification of the Claimant's identity; however, the Department was required to formally notify L&S of the denial. In light of the foregoing, it is found that L&S is entitled to a copy of the December 23, 2009 Notice of Case Action.

Regarding a currently dated denial; L&S requested, in the alternative to re-registering/re-processing the March 2009 application, a currently dated denial. Importantly, the Department did not deny the application based on a finding of "not disabled". Instead, the application was denied based on the failure to submit the requested verifications, specifically noting no verification regarding the Claimant's identity. A currently dated denial does not change the fact that at the time of denial, verification of the Claimant's identity was not submitted. For MA purposes, the identity of U.S. citizens age 16 and above must be verified. This was not done within the time frame of the requested verifications, therefore, the denial of the March 2009 application was proper. The Department was not required to render a determination regarding disability when the Claimant's identity was not provided.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department failed to establish it acted in accordance with department policy when it did not provide the Notice of Case Action to L&S.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department's actions are not upheld.

2. The Department shall send a copy of the December 23, 2009 Notice of Case Action to L&S Associates, Inc.

Colleen M. Mamelka

Colleen M. Mamelka

Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 12, 2012

Date Mailed: October 12, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CMM/cl

cc: [REDACTED]
Oakland County DHS (03)/1843

[REDACTED]
N. Scharrer

C. Mamelka