

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201260544
Issue No: 2006
Case No: [REDACTED]
Hearing Date: September 19, 2012
Macomb 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 19, 2012. The claimant's authorized representative (AR), [REDACTED] Associates appeared on behalf of the claimant and provided testimony.

ISSUE

Whether the department properly denied the claimant's application for Medical Assistance (MA) benefits 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 November 18, 2010.
2. A hearing was held on July 21, 2011 as the claimant's application was denied for a failure to return requested verifications.
3. The Administrative Law Judge reversed the actions of the department and ordered that the claimant's AR be sent a verification checklist to determine eligibility, that the application be reprocessed, and that the claimant's AR be notified in writing of the determination as per policy. (Department Exhibits 32-35).

4. The department sent the claimant and the AR a verification checklist on July 23, 2011, requesting medical verifications to be returned by August 2, 2011. (Department Exhibit 31).
5. The department sent the claimant's AR a notice of case action (DHS 1605) on August 4, 2011, stating that the application of July 7, 2011 was being denied for failure to submit the requested verifications. (Department Exhibits 29-30).
6. The notice of case action did not address the November 18, 2010 application.
7. The department did not issue a notice of case action that addressed the November 18, 2010 application.
8. On August 2, 2011, the claimant's AR faxed over a request to the department for assistance in obtaining the requested verifications and an extension for the due date. (Claimant Exhibit E).
9. The claimant's AR then submitted several requests to the department regarding the verifications and requesting assistance and extensions of the time limit. (Claimant Exhibits F-J).
10. On June 15, 2012, the claimant's AR filed a hearing request regarding the November 18, 2010 MA application.

CONCLUSIONS OF LAW

As a preliminary matter, the first issue to be decided is whether or not the claimant's AR timely submitted a hearing request. At the hearing, the department representative testified that she had made an error in sending out the notice of case action; specifically that she meant to reference the November 18, 2010 application date but that she inadvertently did not mention it. The claimant had submitted subsequent MA applications so there was confusion as to which dates in question were being denied. Therefore, as the claimant's AR did not receive proper notice of the denial of the November 18, 2010 application, the claimant's hearing request is timely and the case will proceed on the merits.

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 several requests requesting extensions of time to submit the requested verifications and requesting assistance in obtaining such. The department representative testified that she never received said requests. The claimant's AR did provide documentation that such requests were submitted to the department. Accordingly, the Administrative Law Judge finds that the department should have granted extensions regarding the verifications and should have provided assistance when requested as per policy. Therefore, the department did not act properly in accordance with policy when it denied the claimant's November 18, 2010 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 denied the claimant's MA application 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's AR 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 (November 18, 2010), 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 28, 2012

Date Mailed: September 28, 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

cc:

