

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201329797
Issue No: 2006
Case No: [REDACTED]
Hearing Date: March 13, 2013
Delta County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 March 13, 2013. The claimant did not appear, but was represented by [REDACTED]. The department witnesses were [REDACTED] and [REDACTED].

ISSUE

Did the department properly deny the claimant's Medical Assistance (MA) case for failure to return the required 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/representative applied for MA on April 15, 2010.
2. On September 21, 2010, the department denied the claimant's application for failure to provide the necessary information.
3. On April 26, 2012, the [REDACTED] entered a Stipulation and Order that the claimant would provide a statement from her employer verifying the days that she worked for the relevant period by May 18, 2012, and that the department would reinstate and reprocess the application.
4. On August 24, 2012, the claimant was mailed a Medical Determination Verification Checklist (DHS-3503-MRT) that requested all check stubs from [REDACTED] from March 2010 through September 2010. This was requested to be returned by September 4, 2012. Although there is no

proof this checklist was mailed to [REDACTED] does admit that they received this checklist.

5. On August 31, 2012, [REDACTED] faxed the Department a request for an extension to provide the employment verification.
6. On August 31, 2012, the Department denied the request for an extension, indicating that two previous extensions were granted on the original May 4, 2010 VCL.
7. On September 12, 2012, [REDACTED] provided an Employment Verification form (DHS-38) and check stubs for the claimant.
8. The department did not accept the new material and continued the denial of the application.
9. The claimant/representative submitted a hearing request on January 24, 2013.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

Department policy states:

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 means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. BEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

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 of Verifications** 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 of Verifications

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 or Mi Bridges document upload), 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.

Note: For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, you must assist them with the verifications but do not grant an extension. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, explain their eligibility will be determined based on their compliance

date if they return required verifications. Re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing. BAM 130.

MA and AMP

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM 130.

As an initial matter, the department indicates in their hearing request that they believe this to be a matter for the Circuit Court. However, as noted in the Stipulation and Order, the Court did not retain jurisdiction in this matter, so there is no remedy for the claimant and her representative to pursue through the Court.

The Stipulation and Order entered on April 26, 2012 ordered the department to reinstate and process the claimant's April 15, 2010 application after claimant provided a statement from her employer verifying the days that she worked for the relevant period by May 18, 2012. It is noted that the department admits to timely receiving a letter indicating the dates the claimant worked at [REDACTED], reviewed and verified by the owner, as well as three paycheck stubs. The department admits this information in the August 8, 2012 letter to the Court. Therefore, the claimant did comply with the Stipulation and Order issued from the Court.

However, the Department found this information to be conflicting and wanted more information. Thus, the department indicates that they met with the Claimant, although not with her representative, [REDACTED]. Apparently, they also issued one Verification Checklist (DHS-3503) to the client, although no copy of this was provided to this Administrative Law Judge.

The department did provide a copy of an August 24, 2012, Medical Determination Verification Checklist (DHS-3503-MRT) that requested all check stubs from [REDACTED] from March 2010 through September 2010. This was requested to be returned by September 4, 2012. Although there is no proof this checklist was submitted to [REDACTED] does admit that they received this checklist. On August 31, 2012, [REDACTED] faxed the department a request for an extension to provide the employment verification. On August 31, 2012, the department denied the request for an extension, indicating that two previous extensions were granted on the original May 4, 2010 VCL.

On September 12, 2012, [REDACTED] provided an Employment Verification form (DHS-38) and check stubs for the claimant. The department did not accept the new material and continued the denial of the application.

The department witness admitted that the original Verification Checklist issued back in 2010 required different information to be submitted than the VCL issued in 2012. This Administrative Law Judge finds two problems with the department's actions in this case. First, the department held meetings and sent at least one VCL to the claimant without including the claimant's authorized representative at all. The claimant's authorized representative should have been included in all correspondence and all meetings. Second, the department issued a new VCL on August 24, 2012. There is no basis to deny any requested extensions because extensions were granted on the initial 2000 VCL. The department witness admitted at hearing that this VCL included new information. Therefore, as this was a new VCL, the department should have applied BAM 130 anew, giving the claimant/representative up to three extensions.

In fact, the requested information was submitted by September 12, 2012. Therefore, the department should have granted an extension to the claimant/representative per BAM 130 and accepted the information presented on September 12, 2012 and processed the April 15, 2010 application as ordered by the Court in the Stipulation and Order.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department.

Accordingly, the department's actions are **REVERSED**. The department shall reinstate and process the claimant's April 15, 2010 MA application and issue a decision to the claimant and her representative. SO ORDERED.

/s/ _____
Suzanne L. Morris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 20, 2013

Date Mailed: March 21, 2013

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 60 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.

NOTICE: 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

SLM/cr

cc:

