

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No.: 2009-113
Issue No.: 2006
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 24, 2009
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 held on August 24, 2009. The Claimant's representative [REDACTED] by [REDACTED] appeared and testified. [REDACTED] FIM appeared on behalf of the Department.

ISSUE

Did the Department properly deny claimant's application for MA benefits for January 2008?

FINDINGS OF FACT

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

1. On January 30, 2008 claimant applied for MA benefits by his surviving spouse Judy Holland.
2. A verification checklist was mailed to Claimant's wife on 03/25/08 with a April 4, 2008 due date. (Department Exhibit 1, pg. 4)

3. The verification requested proof that claimant's wife was the representative of the claimant's estate. Specifically, the verification stated "need probate court order showing [REDACTED] is the representative and she is appointing [REDACTED] to represent her and the estate" (Department Exhibit 1, pg. 4)
4. On April 8, 2008 a Notice of Case Action was sent to Claimant telling him that his Medicaid application was denied. (Department Exhibit 1, p.5)
5. On June 26, 2008, the Department received Claimant's hearing request protesting denial of MA benefits on 04/08/08. (Department Exhibit 1, p.2)

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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. PAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. PAM 130, p.4; PEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. PAM 130, p. 4. Before making an

eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. PAM 130, p. 6.

In the present case, the claimant's position is that the verifications were not needed because the claimant's wife had the authority to apply for benefits and sign for appointment of representative. Claimant asserts that a surviving spouse is not required to have probate authorization to file a Medicaid application citing PAM 110 pg. 3 and pg. 7. A surviving spouse is a specified relative that can apply for Medicaid under PAM 110 pg.8 as defined in PEM 135.

The Department's position is that any appointment of representative designation expired upon death of the claimant and that authority from probate court was required both for application and appointment of representative. The Department cites PAM 110 pg. 9 which advises that authorizations to represent expire upon death. This Administrative Law Judge does not find this argument persuasive. Claimant's surviving spouse had the authority under the regulations to apply for benefits and authorize an appointment of representative. PAM 110 Designation of appointment of personal representative for claimant's estate was not necessary.

It is found that the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly denied Claimant's MA benefits.

Accordingly, the Department's FAP eligibility determination is REVERSED and remanded to the department for reinstatement and reprocessing.

/s/

Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/28/09

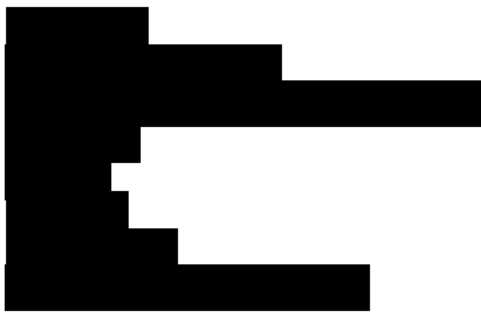
Date Mailed: 08/31/09

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.

AM/jlg

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