

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],

Claimant

By: [REDACTED]

Reg. No: 2009-15128

Issue No: 2019

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 10, 2009

Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 June 10, 2009 in Ionia. Claimant resides in a long-term care center and was unable to appear. Claimant was represented by his wife, [REDACTED].

The department was represented by Steve Speiser (FIM).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUE

Did the department process claimant's MA-LTC application promptly?

FINDINGS OF FACT

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

- (1) Claimant is a current MA-LTC applicant. He resides in a long-term care facility.
- (2) Claimant's spouse is his POA/representative.

(3) On August 27, 2008, the POA/representative applied for MA-LTC on claimant's behalf for the months of August, September, October and November 2008.

(4) On September 11, 2008, the caseworker sent a Verification Checklist requesting verification of assets. The due date for providing the information was September 23, 2008.

(5) The POA timely provided the verifications requested by the local office.

(6) The department decided that claimant's countable assets exceeded the \$2,000 asset limit for the months in question. This decision was not disputed by the POA at the hearing.

(7) The standard of promptness for MA-LTC applications is 45 days from the date all verifications have been provided.

(8) The DHS due date for issuing a decision in this matter was approximately October 2008.

(9) The local office did not make an eligibility determination until December 26, 2008. The local office decision was approximately 60 days overdue. The delay was caused by a significant increase in the local office workload and a palpable lack of adequate staff to perform eligibility determinations.

(10) Claimant's spouse was inconvenienced and suffered an unspecified financial loss because of the 60-day delay in processing claimant's application.

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 Program Administrative

Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The standard of promptness regulations for the department state that MA-LTC applications must be decided within 45 days of the application date. PAM 400, 402.

The department admitted that it failed to process claimant's application within the required 45-day standard of promptness.

Claimant is requesting compensation for the damages she incurred due to the department's failure to make a decision within the standard of promptness.

Unfortunately, the Administrative Law Judge has no authority to provided damages based on the department's failure to follow its policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly calculated claimant's eligibility for the months in question. However, the department did not reach a decision within the 45-day standard of promptness.

However, since the ALJ lacks jurisdiction to fashion equitable remedies, it is unable to modify the result in this matter.

Accordingly, the department's action is, hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 26, 2009

Date Mailed: January 26, 2009

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.

JWS/tg

cc:

