

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: 2009-24673
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 24, 2010
Eaton County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 three-way telephone hearing was held on Wednesday, March 24, 2010. The claimant is deceased, but was represented by [REDACTED].

ISSUE

Did the department properly deny the claimant's November 25, 2008 application for Medical Assistance (MA) for failure to provide verification?

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 November 25, 2008, [REDACTED] filed an application for Medical Assistance (MA) with retroactive MA benefits to August 2008.

(2) On December 9, 2008, the department caseworker sent a Verification Checklist to the claimant and [REDACTED] to provide verification required to determine eligibility.

(Department Exhibit 8)

(2) On [REDACTED], the claimant died.

(3) On April 8, 2009, the department caseworker sent a denial notice stating that the claimant was denied MA December 2008 retroactive to August 2008 because verification of the claimant's 401K retirement plan and 2007 income with [REDACTED] were never received to determine MA eligibility because the department is required to have proof of all income and assets for the time period requested. (Department Exhibit 6-7)

(4) On April 17, 2009, the department received a hearing request from [REDACTED] [REDACTED] contesting the department's negative action.

(5) During the hearing, the [REDACTED] representative stated that the claimant's husband signed authorization to [REDACTED] on April 8, 2009, but was not received by the department until April 17, 2009.

(6) During the hearing, the [REDACTED] representative stated that they provided the verification to the department that was required on January 8, 2009.

(7) During the hearing, the department caseworker stated that [REDACTED] did not provide the 401K information that was needed to determine MA eligibility.

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 department's program eligibility manuals provide the following relevant policy statements and instructions for caseworkers:

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- . Determine eligibility.
- . Calculate the level of benefits.
- . Protect client rights. PAM, Item 105, p. 1.

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. PAM, Item 105, p. 5.

LOCAL OFFICE RESPONSIBILITIES

All Programs

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees. PAM, Item 105, p. 8.

VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY

All Programs

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

Obtain verification when:

- required by policy. PEM 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 without prior approval from central office.
- information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. PAM, Item 130, p. 1.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

ELIGIBILITY DECISIONS

Denials

All Programs

If the group is ineligible **or** refuses to cooperate in the application process, send a denial notice within the standard of promptness. PAM, Item 115, p. 15.

AUTHORIZED REPRESENTATIVES

All Programs

An **Authorized Representative** (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (e.g., to obtain FAP benefits for the group.) An AR is not the same as an Authorized Hearing Representative (AHR) PAM, Item 110, p. 6.

The AR assumes all the responsibilities of a client. See PAM 105. PEM, Item 110, p. 7.

The AR must give his name, address, and title or relationship to the client. To establish the client's eligibility, he must be familiar enough with the circumstances to complete the application, answer interview questions, and collect needed verifications. PAM, Item 110, p. 7.

MA Only

Application may be made on behalf of a client by his spouse, parent, legal guardian, adult child, stepchild, specified relative or any other person provided the person is at least age 18 or married. If this 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. The application form must be signed by the client or the individual acting as his authorized representative.

When an assistance application is received in the local office without the applicants signature or without a signed document authorizing someone to act on the applicants behalf you must do the following:

- Register the application as a request if it contains a signature.
- Send a DHS-723, Incomplete Application Notice, to the agency or the individual who completed the application.
- Send a DHS-330, Notice of Missing Information, to the client explaining the need for a valid signature. The signature page of the application may be copied and sent to the agency or individual who filled out the application with the notice.
- Allow 10 days for a response. You cannot deny an application due to incompleteness until 10 calendar days from the date of your initial request in writing to the applicant to complete the application form or supply missing information, or the initial scheduled interview.
- Record the date the application or filing form with the minimum information is received. The application must be registered and disposed of on Bridges, using the receipt date as the application date.

An application received from an agency is acceptable if it is signed by an individual and is accompanied by written documentation from the client authorizing the agency to act as their authorized representative.

Note: If unrelated adults living in the same home apply for assistance, neither has the authority to act on the other's behalf without written permission from the applicant.

Authorized
Representative

MA Only

An authorized representative must be:

- An adult child or stepchild.
- A specified relative, see BEM 135.
- Designated in writing by the client.
- Court appointed.
- A representative of an institution (e.g., jail, prison) where the client is in custody.

Persons Providing

Medical Care

MA Only

Persons who provide medical care to the client, or their agents, should **not** act for the client when there is a relative, guardian or friend who is willing and able to act. If a court has appointed a guardian for a client's estate (i.e., his income and assets), the guardian is usually expected to act for the client.

Exception: An application may be made for newborns surrendered under the Safe Delivery Law, (MCL 712.1-712.20) by the provider hospital, child-placing agency, court appointed lawyer-guardian ad litem or prospective adoptive parent.

A department employee may apply on behalf of a member of the employee's family or a child committed to, or placed with, the department by court order.

MA Only

An authorization to represent is a form of a power of attorney. When a person who gave the authorization dies, the power of attorney ends. After death, the person does not exist as a legal

entity, so no one can represent the person. However, if a person dies while the application is pending, the application should be processed.

An estate may be created to handle the remaining business and financial issues that were outstanding at the time of death. Only a probate court can create a decedent's estate. The court will also appoint someone to act as a representative of the estate.

A court, agency or guardian **legally** responsible for a client must be identified as an Authorized Representative (AR) by Type on Bridges.

In the instant case, [REDACTED] applied for MA benefits for the claimant on November 25, 2008 with retroactive benefits to August 2008. The claimant died on [REDACTED]. Even though [REDACTED] has authority to represent the claimant based on their November 25, 2008 application and representation papers filed when the claimant died the authority to represent was no longer valid. [REDACTED] did not have authorization to represent the claimant when she died on [REDACTED].

The department was required to process the application, which they did. The required verification was not provided to the department and the case was denied on April 8, 2009. Subsequently, [REDACTED] received a signed authorization to represent through the husband that was dated August 8, 2009, but was not received by the department until April 17, 2009 after the case closure of April 8, 2009.

Therefore, the department has established that it was acting in compliance with department policy by denying the claimant's November 25, 2008 application with retroactive MA to August 2008 because the required verifications were not submitted to determine eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has established that it was acting in compliance with department policy when it denied the claimant's November 25, 2008 application with retroactive MA to August 2008 because the required verifications were not provided to determine MA eligibility.

Accordingly, the department's decision is **AFFIRMED**.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 13, 2010

Date Mailed: May 14, 2010

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 mailing 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.

CGF/vc

cc:

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