

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.: 2009-28719
Issue No.: 2006
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
October 28, 2009
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant request for hearing received by the Department on June 5, 2009. After due notice, a hearing was conducted from Taylor, Michigan on October 28, 2009. The Claimant's authorized representative, [REDACTED] of [REDACTED] appeared and testified, along with [REDACTED], [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Medical Assistance ("MA") benefits based upon the failure to provide requested verifications?

FINDINGS OF FACT

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

1. The Claimant's authorized representative submitted a public assistance application seeking Medical Assistance ("MA") benefits retroactive from July 2008, on October 28, 2008. (Exhibit 1, pp. 69 – 91)
2. The Claimant's social security number was incorrect on the application. (Exhibit 1, p. 78)
3. The retroactive application incorrectly lists June 2008, July 2008, and September 2008 as the retro benefits months. (Exhibit 1, pp. 62, 63)
4. On October 30, 2008, the Department sent a Verification Checklist to the Claimant and the authorized representative requesting both income and asset verifications to be submitted by November 10, 2008.
5. On or about November 7, 2008, the authorized representative requested, and was granted, an additional 10 days to secure the requested information. (Exhibit 1, p. 64)
6. On November 12, 2008, the Department received a notarized faxed statement providing that the Claimant had been separated from his wife for the last six months. (Exhibit 1, p. 61)
7. On December 3, 2008, the Department received the Asset Verifications regarding the Claimant's bank account for the months of June through November 2008. (Exhibit 1, pp. 54 – 59)
8. The November 2008 Asset Verification provides that the bank accounts, both checking and savings, were closed. (Exhibit 1, p. 59)
9. The Claimant received \$1,273.00 in RSDI income which was directly deposited into a savings account. (Exhibit 1, pp. 32, 33, 66 – 68)

10. On November 18, 2008 and December 15, 2008, the authorized representative contacted the Department via email requesting additional time, stating that the Claimant's employer was not cooperating in providing information relating to the Claimant's disability income. (Exhibit 1, p. 52)
11. On December 18, 2008, the authorized representative submitted Employment Verifications which indicated that the Claimant did not receive any pay and was on a leave of absence. (Exhibit 1, pp. 45 – 50)
12. On March 2, 2009, the authorized representative sent an email to the Department requesting additional time in order to submit the requested verifications. (Exhibit 1, p. 17)
13. On March 2nd, the authorized representative submitted a letter from the Claimant's employer stating that the Claimant was still "employed" but was on an administrative leave. (Exhibit 1, pp. 18 – 20)
14. The Department responded to the email seeking information regarding the Claimant's sick/pension pay. (Exhibit 1, p. 16)
15. The authorized representative requested an extension of time until March 11, 2009 to provide the information. (Exhibit 1, p. 15)
16. The Department granted the extension request until March 11, 2009.
17. On March 6, 2009, the authorized representative contacted the Department stating that the banking information was requested but had not been received but that it should arrive shortly. (Exhibit 1, p. 13)
18. In response, the Department stated that it needed to verify proof of disability income suggesting that a check stub may contain the required information. (Exhibit 1, p. 13)

19. On March 11th, the authorized representative contacted the Department stating that it was unable to obtain the requested information. (Exhibit 1, p. 11)
20. On this same date, the Department responded that it was unable to process the application without proof of when the Claimant's sick pay or pension ceased. (Exhibit 1, p. 11)
21. On March 11, 2009, the Department denied the Claimant's application based upon the failure to provide the required income and asset verifications. (Exhibit 1, pp. 4, 10)
22. On June 8, 2008, the Department received the Claimant's timely request for hearing specifically protesting the March 11, 2009 denial. (Exhibit 1, pp. 1 – 4)

CONCLUSIONS OF LAW

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 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC R 400.903 A request for hearing shall be in writing and signed by the claimant, petitioner, or authorized representative. MAC R 400.904(1) A claimant shall be provided 90 days from the mailing of the notice to request a hearing. MAC R 400.904(4); PAM 600 [BAM 600]

In this case, the Claimant's timely request for hearing specifically referred to the March 11, 2009 denial. In addition, a copy of the Eligibility Notification was included with the Request for Hearing. During the hearing, the Claimant's authorized representative referenced a July 2008 application however the hearing request made no mention of the July application and referred to the October application only. The Department did not have a July application. In addition, the

October application incorrectly sought retro-MA for June 2008. Specifically, the retroactive Medicaid application included the months of June, July, and September 2008 as opposed to July, August, and September 2008. Pursuant to PAM 115 [BAM 115], retro-MA coverage is available back to the first day of the third calendar month prior to the application date. Given the application date of October 28, 2008, retro-MA coverage would go back to July 2008, not June 2008.

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, formally 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”) [Bridges Administrative Manual (“BAM”)], the Program Eligibility Manual (“PEM”) [Bridges Eligibility Manual (“BEM”)], and the Program Reference Manual (“PRM”) [Bridges Policy Glossary (“BPG”)].

A request for public assistance may be in person, by mail, telephone or through by an internet application. PAM 110, [BAM 110] Clients must complete and sign public assistance applications. PAM 115 [BAM 115] An application is incomplete until enough information is provided to determine eligibility. *Id.* Registered applications must contain, at a minimum, the name, birth date, and address of the applicant, along with the signature of the applicant or authorized representative. PAM 105 [BAM 105] Retro MA coverage is available back to the first day of the third calendar month prior to the application date. PAM 115 [BAM 115] If a client refuses to cooperate in the application process, a denial notice is sent within the standard of promptness. *Id.*

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130 [BAM 130] The client must obtain the required verification, however, the Department must assist if needed and/or requested. *Id.* If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. *Id.* If no evidence is available, the Department should use its best judgment. *Id.* Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. *Id.* If a client cannot provide the verification, despite reasonable effort, an extension should be granted up to three times. *Id.* A negative action notice is sent when the client refuses to provide a verification or the time period given has elapsed. *Id.*

In addition to income, assets must be considered in determining MA eligibility. PEM 400 [BEM 400] Assets are cash and any other personal and/or real property. *Id.* Countable assets must be available and cannot exceed the applicable asset limit. *Id.* Available means that someone in the asset group has the legal right to use or dispose of the asset. *Id.* MA eligibility for future months is not authorized if at application processing, the individual has excess assets. *Id.*

In the record presented, the Claimant's authorized representative had a difficult time in securing the requested verifications which were necessary to determine MA eligibility. More specifically, the Claimant's RSDI was directly deposited into a savings account however the savings account information submitted established that the account was closed. The Department requested all bank (asset) account information to include the account where the RSDI income was being deposited into. This information was never received. In addition, the Claimant's application indicated that he was receiving short- or long-term disability income and/or pension

benefits yet conflicting evidence was presented. The Department requested verifications in order to clarify which was necessary to determine eligibility. Throughout the entire process, the Department was in contacted with the Claimant's authorized representative as evident by the several email communications. The Department extended the due date for the verifications on more than three occasions and, pursuant to PAM 130 [BAM 130], the application was denied after the time period had lapsed. An application cannot remain open indefinitely. Under this scenario, the Department established it acted in accordance with department policy when it denied the Claimant's MA application. Accordingly, the Department's eligibility determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination is upheld.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/05/09

Date Mailed: 11/05/09

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.

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