

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████
██████████
██████████

BY: ██████████,
Spouse

Reg. No: 2009-25019
Issue No: 2006; 2009
Case No: ██████████
Load No:
Hearing Date:
March 11, 2010
Berrien 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, an in-person hearing was held in Benton Harbor on March 11, 2010. Claimant personally appeared and testified under oath. Claimant was represented by ██████████ (██████████).

The department was represented by Cathy DeRidder (FIM), and Amy Timm (ES).

ISSUE

Did the department correctly deny claimant's MA-LTC application due to claimant's failure to verify his eligibility (assets and income) by the due date?

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 an MA-P/LTC applicant.
- (2) Claimant entered the long-term care center (LTC) in September 2008. His spouse, with the assistance of the LTC social worker, applied for MA-LTC for claimant.

- (3) On December 11, 2008, the claimant's spouse filed an LTC application for claimant in Berrien County. Claimant requested retro LTC benefits for September, October and November 2008.
- (4) On January 14, 2009, the caseworker sent claimant a DHS-3503 (Verification Checklist). The Notice stated that claimant was required to submit verification of his assets and income for eligibility determination purposes. The verifications were required for all months for which benefits were requested. In addition, verifications were requested for the 36-month look back period for MA eligibility.
- (5) The caseworker sent the DHS-3503 and all other correspondence pertaining to claimant's MA-LTC application to claimant's address of record: [REDACTED]. Claimant's spouse resided at this address during the period in question.
- (6) Claimant's spouse thinks she did not receive a copy of the DHS-3503 by mail. The Notice was not returned to DHS by the post office.
- (7) The DHS-3503 contained the following instructions in pertinent part:

* * *

Important Information:

Call me right away if you cannot come to the interview or if you have any questions or problems getting the proofs. I will help you get the proofs if you ask for help. If the information must be provided on a DHS form, the form is enclosed.

You must get the proofs to me or call me by the due date below. **If you do not, your benefits may be denied or cancelled.**

* * *

All Asset balances for each month applying for Medicaid. Asset declaration complete sign date. SEV value for property that was quit claimed on 07/2008—there will be a divestment period as a 3 year look back period intent to cont income for both spouses 2008 and 2009.

- (8) The caseworker did not receive from claimant a request for an extension of the verification due date, while the application was pending.
- (9) Claimant did request assistance from the DHS caseworker, from the FIM or from the county director, while the application was pending.

- (10) On February 5, 2009, the caseworker denied claimant's application due to his failure to verify all relevant eligibility factors by the due date.
- (11) The caseworker sent a DHS-4598 (Eligibility Notice) to claimant at his address of record. It was not returned by the post office. The DHS-4598 states in pertinent part:

You listed a land contract, but did not provide the contract or proof of income from the contract. We would need a complete asset declaration, plus proof of all accounts held on 8/24/08, and proof of where money was used. We need all proof of all assets for December 08, Nov 08, September 08, and October 08. Must provide documentation of any closed accounts.

- (12) On March 9, 2009, claimant's spouse retained the services of [REDACTED].
- (13) On April 22, 2009, [REDACTED] requested a hearing on claimant's behalf. The DHS-4598 Hearing Request states in pertinent part:

It was never explained to me that an asset declaration and proof of all accounts held on 8/24/08, Sept. 08, Oct. 08, Nov. 08, and December 08 was required. If I had known, this information could have been submitted since we have very little in the way of assets.

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).

Current department policy requires applicants to cooperate with the local office in determining initial and ongoing eligibility for Medicaid. This includes completion of the necessary forms, and a face-to-face meeting, when requested. BAM 105. Cooperation also includes the requirement that applicants provide verification of household composition, household income, and household assets when requested. BEM 220, 212, and 220. See also BEM 500, 105, 110, and 115. Also BEM 260.

The preponderance of the evidence in the record shows that claimant failed to verify his earned income, checking accounts, land contract, rental agreements, and other relevant information to DHS by the due date of January 27, 2009. The caseworker correctly requested verification of claimant's MA income, assets, checking accounts, rental properties, etc., in order to determine claimant's eligibility for MA-LTC. The caseworker set a deadline of January 27, 2009 for submitting the required eligibility verifications. Claimant did not submit the required eligibility verifications by the due date.

For this reason, the caseworker correctly denied claimant's application due to his failure to verify his income and assets as requested, by the due date.

Also, there is no evidence of arbitrary or capricious action by the department in this matter.

Claimant has made an implicit request for the department to reopen his December 11, 2008 application based on the principles of equity. Unfortunately, the Administrative Law Judge does not have equitable powers in this matter.

The department has established by the competent, material and substantial evidence on the record that it acted in compliance with department policy when it decided the claimant was not eligible for MA-LTC. Furthermore, claimant did not meet her burden of proof to show that the department's denial of her MA-LTC application was reversible error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly requested verification of claimant's income and assets for MA-LTC eligibility purposes. Furthermore, claimant failed to comply with the department's eligibility verification requirements by the due date.

Therefore, the action taken by the department is, hereby, AFFIRMED.

SO ORDERED.

/s/ _____

Jay W. Sexton
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 27, 2011

Date Mailed: May 27, 2011

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:

