

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: 2009-865

Issue No: 2010

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 21, 2009

Jackson 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 telephone hearing was held on Thursday, May 21, 2009. The claimant was not present, but was represented by her authorized representative, her daughter, [REDACTED], who testified on her mother's behalf.

ISSUE

Whether the department was acting in compliance with department policy when it determined that divestment had occurred and that the claimant was not eligible for Medical Assistance (MA) benefits for long-term care from June 1, 2008 through November 8, 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 June 30, 2008, an application was filed on behalf of the claimant who resides in a long-term care facility.

(2) On June 30, 2008, the department caseworker received a transfer of assets and closed accounts (Department Exhibit A):

- On [REDACTED], the claimant's husband transferred [REDACTED] to his son to pay for a medically necessary hip replacement and another [REDACTED] was transferred to the son on [REDACTED] to be used for his medical needs. The claimant's husband was assisting his son with a medically necessary medical procedure with these funds and as such this transfer should not be determined as divestment.
- On [REDACTED], the claimant and her husband transferred [REDACTED] to their daughter and [REDACTED] to their son-in-law.

(3) On September 4, 2008, the department caseworker, based on the information submitted, determined that there was a divestment penalty from June 1, 2008 through November 8, 2008 where the claimant and her husband had given away a total of [REDACTED] to their children in 2007, which resulted in a five month and eight day penalty. (Department Exhibit B)

(4) On September 4, 2008, the department caseworker sent the claimant a notice that she was eligible for MA, but had to serve a divestment penalty from June 1, 2008 through November 8, 2008.

(5) On September 18, 2008, the claimant's daughter submitted a hearing request, on behalf of her mother.

(6) During the hearing, the claimant's daughter stated that the funds given to the claimant's son were to pay for medical benefits.

(7) The parties have reached an agreed upon settlement to resolve the dispute. The department agrees to settle by allowing the claimant's authorized representative to provide written documentation that the claimant's son, [REDACTED], had no income or assets to pay his medical bills. In addition, the claimant's authorized representative is to provide written documentation from the hospital and doctor of the [REDACTED] that was paid. These verifications are due based on a Verification Checklist that was given to the claimant's authorized representative on May 1, 2009 that will be due Wednesday, June 3, 2009.

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).

In the present case, the parties have reached an agreed upon settlement to resolve the dispute. The department agrees to settle by allowing the claimant's authorized representative to provide written documentation that the claimant's son, [REDACTED], had no income or assets to pay his medical bills. In addition, the claimant's authorized representative is to provide written documentation from the hospital and doctor of the [REDACTED] that was paid. These verifications are due based on a Verification Checklist that was given to the claimant's authorized representative on May 1, 2009 that will be due Wednesday, June 3, 2009. If the claimant does not agree with the determination, she may file another request for a hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the parties have reached an agreed upon settlement.

The department is ORDERED to redetermine the claimant's eligibility for MA benefits retroactive to June 2008 if the claimant's daughter provides the required verifications by June 3, 2009, if it has not already done so.

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

Date Signed: July 15, 2009

Date Mailed: July 15, 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 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/vmc

cc:

[REDACTED]