

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201043473

Issue No: 2015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 19, 2010

Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on April 19, 2010. After due notice, a telephone hearing was held on Thursday, August 19, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Medical Assistance (MA) eligibility?

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 April 16, 2009, ALJ Jana Bachman issued a Decision and Order in which the ALJ upheld the Department of Human Services (Department) determination that the Claimant was eligible for the Adult Medical Program (AMP).
2. On July 13, 2009, the State Office of Administrative Hearings and Rules (SOAHR), Administrative Hearings for the Department of Human Services, granted the Claimant's request for reconsideration and issued a Notice of Reconsideration.
3. On July 29, 2009, SOAHR issued a Reconsideration Decision and reversed the Administrative Law Judge's decision dated April 16, 2009.

4. Findings of Fact 1 and 2 (the entire findings) from the Decision and Order mailed April 16, 2009, are hereby incorporated by reference.
5. Findings of Fact 5, 6, 7, and 8 from the Reconsideration Decision mailed July 30, 2009, are hereby incorporated by reference.
6. The Department received the Claimant's request for a hearing on April 19, 2010, protesting the Department's implementation of the Reconsideration Decision mailed July 30, 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, et seq. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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

APPLICATION PROCESSING INCOMPLETE APPLICATIONS ALL PROGRAMS

An incomplete application contains the minimum information required for registering an application. However, it does not contain enough information to determine eligibility because all required questions are not answered for the program(s) for which the client is applying. BAM 105.

When an incomplete application is filed, retain the application and send the client a Verification Checklist (DHS-3503). Inform the client of the:

- Request for contact to complete missing information.
- Due date for missing information.
- Interview date, if applicable.

If an interview is necessary, conduct it on the day of the filing, if possible. Otherwise, schedule it for no later than 10 calendar days from the application date.

PAM 115, page 3.

CITIZENSHIP / ALIEN STATUS MA AND AMP

Citizenship / alien status is not an eligibility factor for emergency services only (ESO) MA. However, the person must meet all other eligibility factors including residence.

PEM 225, Page 2.

GROUP 2 CARETAKER RELATIVES NONFINANCIAL ELIGIBILITY FACTORS

A caretaker relative is a person who meets all of the following requirements:

- Except for temporary absences, the person lives with a dependent child.
- The person is:
 - The parent of the dependent child; or
 - The specified relative (other than a parent) who acts as parent for the dependent child.

When a dependent child lives with both parents, both parents may be caretaker relatives.

Occasionally, a specified relative (other than a parent) who claims to act as parent for the dependent child and the child's parent both live with the child. The client's statement regarding who acts as parent must be accepted. If both the parent and other specified relative claim to act as parent, assume the parent is the caretaker relative. When only the other specified relative claims to act as parent, both the other specified relative and the parent(s) may be caretaker relatives.

Except as explained in the two preceding paragraphs, a child can have only one caretaker relative. This means that if a person is an MA applicant or recipient based on being a caretaker relative, no other person can apply for or receive MA based on being a caretaker relative for the same dependent child.

PEM 110, Pages 1 – 2.

CHOICE OF CATEGORY

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial

category. The most beneficial category is the one that results in eligibility or the least amount of excess income.

Therefore, you must consider all the MA category options in order for the client's right of choice to be meaningful.
BEM 105, p 2.

In this case, the Claimant was hospitalized in [REDACTED], and his representative submitted an application for MA benefits. The Department approved the Claimant for the Adult Medical Program (AMP), and approved his wife and step-daughter for Low Income Family Medical Assistance (LIF-MA) benefits.

The Claimant requested an administrative hearing protesting the Department's eligibility determination. The Claimant argued that the Department should have considered his eligibility for LIF-MA benefits including emergency services only medical assistance (ESO-MA). At the conclusion of the administrative hearing, the Department's eligibility determination was affirmed because the Claimant is not a caretaker relative, a non-financial eligibility requirement.

The Claimant's request for reconsideration was granted, and SOAHR overturned the Administrative Law Judge's decision. The Department was ordered to determine the Claimant's eligibility for ESO-MA benefits on July 29, 2010.

On March 10, 2010, the Department determined that the Claimant was not eligible for ESO-MA, restating its determination that the Claimant is not a caretaker relative. The Department received the Claimant's request for an administrative hearing on April 19, 2010, protesting the Department's denial of MA benefits.

The Claimant is not a United States citizen, but this is not an eligibility factor for ESO-MA benefits. The Claimant must meet all other eligibility factors to qualify for medical benefits.

The Claimant does not claim to be disabled or a Social Security Administration benefits recipient.

The Claimant did not report to the Department on his application for assistance that he acts as a parent to a person under 21 years of age, although there is a child listed as a member of the Claimant's household. The child is not the Claimant's biological daughter, and the Department approved the Claimant's wife and her daughter for LIF-MA benefits.

The Claimant's representative argued that the question of whether the Claimant is a caretaker relative was left unanswered on his application for assistance. The representative argued that the Department erred when it determined that the Claimant was not acting as a caretaker relative. The representative cited BAM 115, which states in part that an application is incomplete until it includes enough information to determine

eligibility, and that when the Department receives an incomplete application it should send the applicant a Pending Application Notice form with a due date to provide the missing information.

However, the Claimant's application for assistance was not incomplete because it did include enough information to determine eligibility. The Department received sufficient information to approve the Claimant's spouse and daughter for LIF-MA benefits and to approve the Claimant for the Adult Medical Program.

The Department had a duty to consider eligibility for MA benefits under the most beneficial program available. Based on the information the Claimant submitted on his application for assistance, the Department fulfilled this duty when it determined that the most beneficial MA program for the Claimant was the Adult Medical Program. The Department does not have a duty to advise an applicant or his representative how to complete an application for benefits to achieve a desired result.

The State Office of Administrative Hearings and Rules ordered the Department determine the Claimant's eligibility for all MA categories. The Department established that it reviewed the Claimant's eligibility for MA benefits and properly determined that he is not eligible for benefits under the LIF-MA category.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's MA eligibility.

The Department's MA eligibility determination is AFFIRMED. It is SO ORDERED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 14, 2010

Date Mailed: September 15, 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 60 days of the filing of the original request.

201043473/KS

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.

KS/vc

cc:

