

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: 2010-5481
Issue No: 2021; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 21, 2010
Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 January 21, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly deny claimant's Food Assistance Program (FAP) and Adult Medical Program (AMP) application in October, 2009?

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 applied for medical assistance and FAP on September 9, 2009, reporting on his application that he had sold a farm and that he receives rental income. Claimant's caseworker noted on the application that the claimant has 2 renters, as apparently told to her during the interview with him.

2. On October 9, 2009, department mailed the claimant a Verification Checklist asking he provide verifications of room and board income, home insurance, and other unearned income, by October 19, 2009.

3. On October 19, 2009, department received a slip of paper completed by a Greg Vissers saying that he pays the claimant \$50 per week for rent.

4. As the claimant failed to provide verification of second rental income by the due date, department mailed him a Notice of Case Action on October 21, 2009, denying his AMP and FAP application, and also citing denial of Medicaid (MA).

5. Claimant requested a hearing on October 26, 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) and the Program Reference Manual (PRM).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 Program Reference Manual (PRM).

Departmental policy states:

**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. BAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM, Item 105, p. 5.

Income reporting requirements are limited to the following:

- . Earned income
 - .. Starting or stopping employment
 - .. Changing employers
 - .. Change in rate of pay
 - .. Change in work hours of more than 5 hours per week that is expected to continue for more than one month
- . Unearned income
 - .. Starting or stopping a source of unearned income
 - .. Change in gross monthly income of more than \$50 since the last reported change. BAM, Item 105, p. 7.

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. BAM, Item 130, p. 1.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM, Item 130, p. 4.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. BAM, Item 130, p. 4.

In claimant's case, he was given 10 days required by policy to provide verification of rental income but, according to the information provided for this hearing and the Hearing Summary, failed to do so and was denied FAP benefits for that reason. Hearing testimony however indicates that the claimant did receive FAP benefits eventually from the date of application, September 9, 2009, through the end of October, 2009. Claimant then apparently had excess income for this program. Therefore, the FAP hearing issue appears to have been resolved.

During the hearing claimant testified that he had sold a farm on a land contract for over \$200,000, and that he receives yearly lump sum payments from this sale. Claimant was interested in receiving MA benefits. Departmental policy, as explained to the claimant by the Administrative Law Judge, states:

PROMISSORY NOTES/LAND CONTRACTS/MORTGAGES

SSI-Related MA Only

A **note** is a written promise to pay a certain sum of money to another person at a specified time. The note may call for installment payments over a period of time (installment note) or a single payment on a specified date. The most common type of note involves the sale of real property and is called a land contract or a mortgage. A homeowner might also sell his home via a sale-leaseback agreement.

The person who sold the property is holder of the note. The note is the holder's asset. BEM, Item 400, p. 22.

Note Value

SSI-Related MA Only

The value of a land contract or mortgage is the amount it can be sold for in the holder's geographic area on short notice (usually at a commercial discount rate) minus any lien on the property the holder must repay. BEM, Item 400, p. 23.

SSI-Related MA Asset Limit

SSI-Related MA Only

For Freedom to Work (BEM 174) the asset limit is \$75,000. IRS recognized retirement accounts (including IRA's and 401(k)'s) may be of unlimited value.

For Medicare Savings Program (BEM 165) and QDWI (BEM 169) the asset limit is:

- . \$4,000 for an asset group of one
- . \$6,000 for an asset group of two

For all other SSI-related MA categories, the asset limit is:

- . \$2,000 for an asset group of one
- . \$3,000 for an asset group of two. BEM, Item 400, p. 4.

Claimant is a single individual and therefore an asset group of one for SSI-Related MA eligibility purposes (claimant receives Social Security disability). Claimant's asset limit for Medicare Savings Program is \$4,000 and for MA \$2,000. Claimant does not dispute that his land contract can be sold to other individuals for well over \$4,000, if he chose to do so. Claimant is therefore over the asset limit for both the Medicare Savings Program and MA, something he acknowledges was explained to him by the local office supervisor after he requested the hearing. It is also noted that claimant receives Social Security disability income

that would be an issue as far as MA ongoing income eligibility, even if he was under the allowable asset limit. BEM 500.

As far as claimant's AMP eligibility, there is currently a freeze on new enrollments in this program that has been in effect for several months, due to the state being short on funds to continue this program. Even if the freeze was not in effect, the claimant would not be eligible for this program. AMP asset limit is \$3,000 and claimant is well over such asset limit, based just on the land contract he holds. BEM 400, p. 3.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly denied claimant's FAP and AMP application in October, 2009. It is noted that hearing testimony indicated that the claimant was issued FAP benefits subsequently for the period of time at issue in this hearing, for a reason that could not be explained by departmental staff present at the hearing.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 10, 2010

Date Mailed: February 11, 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.

2010-5481/IR

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.

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