

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.: 20108789
Issue No.: 2006
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 30, 2010
Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on August 30, 2010. [REDACTED] appeared and testified as Claimant's representative. On behalf of Department of Human Services (DHS), [REDACTED], appeared and testified.

ISSUE

Whether DHS properly denied Claimant's application for Medical Assistance (MA) benefits due to a failure to timely return required verifications.

FINDINGS OF FACT

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

1. On 7/30/09, Claimant, through Claimant's authorized representative, submitted a Medicaid Application (Exhibit 4) to DHS.
2. At the time of Claimant's application, Claimant was a married individual living with her spouse, and the owner of a checking account.
3. Claimant's Medicaid Application failed to indicate that Claimant had a spouse, lived with the spouse, or that Claimant had a checking account.

4. On an unspecified date, after checking their database, DHS learned that Claimant had her Retirement, Survivors, Disability Insurance (RSDI) income deposited into a checking account.
5. On 8/4/09, DHS mailed Claimant's representative a Verification Checklist (Exhibit 1) requesting verification of Claimant's checking account information.
6. The 8/4/09 checklist gave Claimant's representative until 8/14/09 to verify the asset.
7. Upon request from Claimant's representative, DHS extended the due date to verify the checking account information until 8/24/09; DHS mailed a second Verification Checklist (Exhibit 2) reflecting the updated due date.
8. Claimant's representative failed to verify the checking account information.
9. On 9/25/09, DHS denied Claimant's request for MA benefits due to a failure to verify checking account information.
10. On 10/30/09, Claimant's representative requested a hearing concerning the denial of Claimant's MA benefits.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Assets must be verified in determining eligibility for SSI-related MA categories. BEM 400 at 1. Assets mean cash, any other personal property and real property. *Id.* Assets include checking accounts. *Id.* at 9. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 110 at 1. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 at 1. Verification is usually required at application or redetermination. *Id.*

For MA benefits, clients are given 10 calendar days to provide requested verification. If the verification cannot be submitted despite a reasonable effort, the time limit can be extended up to three times. *Id.* at 6.

DHS must assist with obtaining verifications if help is needed and requested. If verification is not obtained despite a reasonable effort, specialists may use the best available information as a substitute. If no evidence is available, then specialists may use their best judgment as a substitute. *Id* at 3.

The present case involves an attempted verification of Claimant's checking account. The evidence showed that Claimant's representative was unsuccessful in verifying the bank information. The Claimant's representative contends that she was at the mercy of Claimant's spouse who was very uncooperative in supplying needed information and documentation.

Claimant's representative essentially argued that the lack of cooperation from Claimant's spouse justifies the failure to return verification of the bank statement. Applying the argument to DHS policy, the argument is that the bank statement was not available and therefore DHS should have used their judgment as a substitute for the bank statement.

The undersigned interprets "if no evidence is available" to refer to circumstances when there is no evidence available, not when it is unavailable to the representative. Such a reading would not excuse Claimant or Claimant's representative from a failure to verify required information. The undersigned is not inclined to interpret the DHS policy so broadly because DHS cannot "use their judgment" on the value of Claimant's assets without some evidence of the asset's value. In the present case, DHS did not have a verbal statement of Claimant's bank account value.

The evidence showed that Claimant was not a person who was able to assist in the verification process. Claimant's spouse was a person who should have cooperated in the verification process. Though Claimant's representative was left in a difficult and debatably impossible position to verify information, Claimant's spouse was a reasonable source of that information. Claimant's spouse's failure to assist in the process is fatal to Claimant's application for MA benefits.

The evidence showed that DHS waited as long as policy required to verify Claimant's bank account value. DHS waited approximately 43 days before denying Claimant's MA benefit request. The 43 days is the equivalent of allowing ten days with three extensions to verify information. DHS regulations require no additional time. At the end of the 43 days, Claimant's representative had not submitted any documentation or evidence verifying the bank account value. It is found that DHS properly denied Claimant's 7/30/09 MA benefit application due to the failure to verify a checking account.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's 7/30/09 application for MA benefits.

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

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.

CG/hw

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