

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: 2010-12286
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 11, 2010
Jackson 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, an in-person hearing was held on August 11, 2010. Claimant is deceased. Claimant's [REDACTED] [REDACTED] appeared and testified.

ISSUE

Did the department correctly deny claimant's Medicaid (MA) application in September, 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 MA on June 11, 2009.
2. On August 4, 2009 department mailed the claimant a Verification Checklist, DHS-3503, giving until August 14, 2009 to provide specific information/verification of assets

and income. This checklist contained the following statement: “Verification that the real estate (that is not the home) has been for sale at fair market value. Also submit verification of how long it has been for sale, submit proof that it has been up for sale.”

3. Claimant was given two extensions in order to provide requested verifications, but did not do so.

4. Department denied claimant’s MA application on September 25, 2009. A hearing was requested by claimant’s wife on November 16, 2009, and the hearing request stated that the claimant died on August 21, 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 (RFT).

Departmental policy requires that the department obtain verifications of assets when determining MA eligibility. Policy states that a client is to be allowed 10 calendar days to provide the requested verification. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM 130. Claimant was given three extensions to provide requested verification of real estate he owned with his spouse, first to August 14, 2009, second to August 24, 2009 and third to September 3, 2009. Department did not deny claimant’s MA application until September 25, 2009.

In order for the department to exempt the real estate owned by the claimant, verification that it has been up for sale at fair market value and how long it has been up for sale had to be

obtained. BEM 400. Claimant's wife testified that the real estate in question had State Equalized Value (SEV) of \$37,000, one of the verification sources that can be used to establish the value of such real estate multiplied by two. Departmental policy states that an asset is non-salable and has \$0 countable value for MA when it has no current market value as shown by two knowledgeable appropriate sources (example: realtor, banker, stock broker) in the owner's geographic area statements that the asset is not salable due to a specific condition. In addition, verification that actual sale attempt of the real estate has been made at or below fair market value in the owner's geographic area with no reasonable offer to purchase would also result in \$0 countable value for MA. For applicants, an active attempt to sell must have started at least three months prior to application and must continue until the property is sold. An "Active Attempt to Sell" means the seller has a set price for fair market value, is actively advertising the sale in publications such as a local newspaper, and or is currently listed with a licensed realtor. Claimant's wife testified that this was not the case with real estate in question.

In conclusion, department did give the claimant more than the time period specified in departmental policy to provide requested verifications. Furthermore, claimant's real estate would not have been exempt from consideration as an asset when determining MA eligibility even if requested verification was provided within the time limits given by the department.

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 MA application in September, 2009.

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: August 30, 2010

Date Mailed: August 30, 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.

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.

IR/tg

cc:

