

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: 2010-12723
Issue No: 2021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 16, 2010
Calhoun 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 June 16, 2010. Claimant did not appear as he is 94 years old and in a nursing home. Appearing and testifying on claimant's behalf was [REDACTED], and [REDACTED], both of [REDACTED].

ISSUE

Did the department correctly deny claimant's Medicaid (MA) and retro MA application in October, 2009 due to excess assets?

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 September 30, 2009 and requested retro MA for June, July and August, 2009.

2. Department requested various verifications to include bank statements, proof of funeral contract and proof of pension income.

3. Claimant did not return proof of pension but did return bank statements which showed that he was over the asset limit for MA. Claimant purchased a funeral contract through a life insurance policy but this did not become irrevocable until October, 2009.

4. Department took action to terminate claimant's MA benefits effective October 30, 2009. Claimant requested a hearing on November 23, 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).

Asset limit for the MA program is \$2000. BEM 400. Department provided documentation of claimant's assets for each month in question, starting in July, 2009. Claimant was clearly over the MA asset limit, as department determined. Nursing home representatives argue that the claimant is 94 years of age and not able to handle his own affairs, and they had a hard time getting the appropriate bank account statements. Department testified that the claimant had a relative listed on his previous application that was handling his affairs, and nursing home representatives state that person refused to assist in the application process. Claimant did sign the MA application of September 30, 2009, and also signed an authorization for representative of [REDACTED] to discuss his application/case on November 23, 2009. This Administrative Law Judge cannot conclude that the claimant is mentally unable to understand

what is being asked of him as far as bank account statements (which may or may not have shown he was under the asset limit), but then accept that he is mentally capable of completing the MA application and also completing the authorization to represent. Furthermore, if the [REDACTED] staff, including the Social Worker, felt that the claimant was not competent to handle his own affairs, this information should have been conveyed to the department, or an action could have also been taken to appoint a guardian for him.

Hearing testimony indicates that the claimant was eventually MA approved for September, 2009, but that he did not get approved for MA for July and August, 2009.

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 and retro MA application in October, 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 4, 2010

Date Mailed: August 5, 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:

