

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. 201032168
Issue No. 2021
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: October 28, 2010
Clinton County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 October 28, 2010. Claimant did not appear; however, she was represented by [REDACTED].

ISSUE

Did the department properly deny retroactive Medicaid (MA) deductible status to claimant in May 2009 based on 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. On June 22, 2009, the department received an MA/retro-MA application on claimant's behalf.
2. On July 16, 2009, the department mailed a Verification Checklist (DHS-3503) to claimant, and also, to her authorized representative ([REDACTED]) requesting necessary credit union verifications to determine whether claimant was financially eligible to qualify for retro-MA in the month of May 2009, which is the only month at issue in this case, per stipulation of the parties at hearing (Department Exhibit #1, pg 20).

3. [REDACTED] submitted verifications which show claimant's lowest savings/share account balance in May 2009 was only [REDACTED]; however, her lowest checking/draft account balance that month was [REDACTED] which greatly exceeds the MA program's [REDACTED] asset limit (Department Exhibit #1, pgs 58 and 60).
4. On September 14, 2009, the department notified claimant in writing she was not asset eligible for retro-MA in the month of May 2009; however, June and July 2009 were approved for deductible MA status under the Caretaker-Relative MA program by subsequent written approval notices dated October 6, 2009 (Department Exhibit #1, pgs 108-109, 115 and 121).
5. The sole basis for the department's May 2009 excess asset denial was the cash amount showing in her checking account balance (See Finding of Fact #3 above).
6. On December 10, 2009, claimant's authorized representative [REDACTED] filed a timely hearing request; however, claimant's hearing was not held until nearly one year later, on October 28, 2010 (Department Exhibit #1, pg 38).
7. [REDACTED] witness at hearing was instrumental in working with claimant from MA/retro-MA application filing throughout the hearing/appeals process.
8. By contrast, neither of the department's witnesses personally processed the disputed application, nor did they participate in the prehearing conference held by conference telephone on December 17, 2009.
9. The application processing worker who attended the prehearing conference (but was absent at hearing) drafted a brief note afterwards which indicates [REDACTED] witness said he could not "prove" any of the deposits on claimant's May 2009 credit union statements were income, and thus, the parties proceeded to hearing.
10. [REDACTED] witness testified credibly at hearing he has absolutely no recollection of ever saying that and he seriously doubts he would have done so because he is extremely familiar with the department's policy at BEM Item 400, pg 13, which provides for an "asset exclusion exception" in certain circumstances, which might have applied in claimant's case.

11. The department's witness agreed that BEM Item 400, pg 13, might have applied if the income inconsistency could have been resolved with verification.
12. The department's witness conceded the department made no requests for verifications regarding what portion of claimant's May 2009 credit union deposits were income before issuing the retro-MA denial on September 14, 2009 (See Finding of Fact #4 above)..
13. [REDACTED] witness testified credibly the only bank accounts claimant had at all times relevant to this dispute were the credit union accounts referenced in Finding of Fact #3 above.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The applicable departmental policy states:

AUTHORIZED REPRESENTATIVES

All Programs

An **Authorized Representative** (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (e.g., to obtain FAP benefits for the group.) An AR is not the same as an Authorized Hearing Representative (AHR) PAM, Item 110, p. 6.

The AR assumes all the responsibilities of a client. See PAM 105. PEM, Item 110, p. 7.

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- . Determine eligibility.
- . Calculate the level of benefits.
- . Protect client rights. PAM, Item 105, p. 1.

Determining Eligibility

All Programs

Determine eligibility and benefit amounts for all requested programs. A DHS-1171 application for cash assistance (FIP/SDA) is an application for medical assistance (MA/AMP), even if medical assistance is not checked as a program being applied for on page 1 of the application. PAM, Item 105, p. 11.

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. PAM, Item 130, p. 1.

Discrepancies

All Programs

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. PAM, Item 130, p. 5.

The relevant, material and credible facts presented at hearing clearly establish the department prematurely denied retro-MA, deductible Caretaker-Relative status to claimant in May 2009. The record confirms the department failed to request verification to resolve the incomplete income/asset information they possessed before they issued the denial notice. This violates the policies set forth above, which require certain definitive actions be taken before denial so applicant rights are protected. As such, the department's action must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erroneously denied retroactive-MA deductible status to claimant in May 2009.

Accordingly, the department's action is REVERSED, and this case is returned to the local office for application reinstatement/reprocessing in accordance with policy, restricted to a May 2009 eligibility determination only. **SO ORDERED.**

_____/s/_____
Marlene B. Magyar
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: December 22, 2010

Date Mailed: December 22, 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.

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.

MBM/db

cc:

