

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: 2010-45829
Issue No: 2021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 22, 2010
Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

REHEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MCL 400.37; and MAC R 400.919 upon an Order For Rehearing. After due notice, a three-way telephone hearing was held on September 22, 2010. Claimant is deceased but has a spouse.

Appearing and testifying on claimant's behalf was [REDACTED],
[REDACTED].

ISSUE

Did the Administrative Law Judge correctly uphold department's denial of claimant's MA and retro Medicaid (MA) application for the month of September, October and November, 2008, due to alleged 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 and retro MA on December 29, 2008.

2. On January 24, 2009, the caseworker sent claimant a Verification Checklist (DHS-3503) requesting that claimant provide a verification of his assets and income, with a due date of February 4, 2009.

3. On or before the due date, the claimant provided verification of [REDACTED] Account with the lowest balance during the month of September, 2008 being \$690.26, and from another bank account assumed by the department to contain \$3,041.31 in September, 2008.

4. On February 9, 2009, the department denied claimant's MA application because "application was filed after [REDACTED] death".

5. On April 21, 2009, [REDACTED] requested a hearing on claimant's behalf.

6. During the hearing on May 4, 2010, the department agreed that the February 9, 2009 denial was incorrect (per the hearing record). Department then amended the denial notice to deny claimant's MA application due to excess assets.

7. The Administrative Law Judge Sexton concluded that the claimant had over \$3,000 in his bank accounts, and upheld department's amended denial based on such excess assets.

8. Claimant's representatives appealed the Administrative Law Judge's decision and on August 23, 2010 SOAHR Manager Marya A. Nelson-Davis issued an Order Of Rehearing.

9. During the rehearing it became easily apparent that the department erred in concluding that the claimant had \$3,041.31 in second bank account, as the second page of the account (in department's possession at the time of their excess asset determination) clearly showed that the claimant's lowest balance during the month of September, 2008 in this account was \$500. Department and Administrative Law Judge Sexton both overlooked the second page

of account, resulting in erroneous determination of excess assets based on the bank account balances.

10. Department's representative then stated that the claimant also had reported non-homestead real estate that was up for sale. No mention of such real estate or any information about it is in the hearing record provided for this hearing.

11. Department's representative was asked to state the location, kind of real estate and its value (i.e. SEV possibly), and had no information whatsoever about it, but claimed a Verification Checklist (DHS-3503) was sent to the claimant in Spanish asking for the verification.

12. Department did not follow through on non-homestead real estate verification as they erroneously concluded that the claimant had excess assets for MA just based on his bank accounts.

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).

Department denied claimant's MA and retro MA application based on excess assets, two bank accounts, and Administrative Law Judge Sexton upheld the denial. It is clear that both determinations were incorrect, as the claimant had \$690.26 in one account and \$500 in the second bank account for lowest balances during the month of September, 2008, for a total of

\$1,190.26. MA asset limit for the claimant is \$3,000 and he was clearly under this asset limit based on the bank accounts' balances.

Department brought up during the hearing the issue of non-homestead real estate, information about which was never obtained by the department. Department did verbally discuss this asset during the initial hearing. Upon further consideration by the Administrative Law Judge and because the rehearing is being held de novo, this information must be considered for MA eligibility purposes.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Administrative Law Judge incorrectly upheld department's denial of claimant's MA and retro MA application for the months of September, October and November, 2008, due to excess assets from two bank accounts.

Accordingly, previous hearing decision issued June 14, 2010 is REVERSED.

Department shall:

1. Re-process claimant's December, 2008 MA and retro MA application without considering his bank account balances as excess assets.
2. Obtain information regarding claimant's non-homestead property by sending a Verification Checklist to the claimant's representative and determine its countability for MA eligibility purposes.
3. Notify the claimant's representative of department's determination.

SO ORDERED.

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

Date Signed: September 22, 2010

Date Mailed: September 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 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:

