

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.: 2010-8913
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 10, 2010
Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing received by the Department on September 23, 2009. After due notice, a telephone hearing was conducted from Pontiac, Michigan on Monday, May 10, 2010. The Claimant appeared, along with her attorney, [REDACTED], and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department acted in accordance with department policy when it denied the Claimant's Medical Assistance ("MA") application?

FINDINGS OF FACT

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

1. On July 10, 2009, the Claimant submitted an application for public assistance seeking MA benefits.

2. On July 21, 2009, the Department sent verification checklists to the Claimant and the nursing home where the Claimant's spouse resided, requesting (in part) that asset verification(s) be submitted by July 31, 2009. (Exhibit 1)
3. On July 31, 2010, the Claimant submitted a copy of the verification checklist along with a copy of an October 1, 2008 initial asset assessment. (Exhibits 1, 3)
4. The Claimant submitted an account statement from her credit union for the period from October through December 2008 which showed a balance of \$5.02.
5. The Claimant submitted a letter from her financial planner stating that \$22,325.00 in assets had been liquidated.
6. On September 3, 2009, the Department sent notification to the Claimant that the MA benefits were denied based upon the failure to submit the asset verification(s) for June 2009. (Exhibit 2)
7. On September 23, 2009, the Department received the Claimant's written request for hearing.

CONCLUSIONS OF LAW

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act. 42 USC 1397 and is administered by the Department of Human Services pursuant to MCL 400.10, *et. seq.* The Department of Human Services ("DHS"), formerly known as the Family Independence Agency, administers the program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM")/Bridges Administration Manual ("BAM"), the Program Eligibility Manual ("PEM")/Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM")/Bridges Reference Manual ("BRM").

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM/BAM 105 If a client refuses to cooperate in the application process, a denial notice is sent within the standard of promptness. PAM/BAM 115 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM/BAM 130 The client must obtain the required verification, however, the Department must assist if needed and/or requested. *Id.* A collateral contact is a direct contact with a person, organization, or agency to verify information provided for by the client. *Id.* If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. *Id.* If no evidence is available, the Department should use its best judgment. *Id.* During the time period at issue and for MA purposes, if a client is unable to provide verification despite a reasonable effort, the time limit may be extended up to three times. *Id.*

Assets must be considered in determining MA eligibility. PEM/BEM 400 Assets are cash and any other personal and/or real property. *Id.* Countable assets must be available and cannot exceed the applicable asset limit. *Id.* Available means that someone in the asset group has the legal right to use or dispose of the asset. *Id.*

In this case, the Claimant's MA case was denied based on the failure to provide asset verifications for a trust account and credit union. On July 21, 2009, the Department requested that all verifications come from the source for the months of April through June 2009. In response, the Claimant submitted a statement providing that the trust account had been liquidated. Further, a copy of the 2008 year-end credit union account reflecting a balance of \$5.02 with a note indicating that "this" was all the Claimant had was submitted. It is unclear whether the Claimant meant that the "this" was relating to the balance or to the credit union

statement itself. The Claimant/Attorney testified credibly that several telephone calls to the Department were made regarding the status of the MA case and that the Claimant was having problems securing the requested information. Recognizing the precise requested verifications were not submitted, there was no communication from the Department informing the Claimant/Attorney that the submitted verifications were not sufficient. Further, there was no evidence that the Claimant had refused to provide the requested information or had otherwise refused to cooperate. On September 3, 2009, the Claimant's MA application was denied based on the failure to submit the asset verifications from the source and covering the period from April through June 2009. Under this scenario and in consideration of the testimony regarding repeated communication attempts with the Department, it is found that the Department's MA denial is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's September 3, 2009 MA denial is not upheld.

Accordingly, it is ORDERED:

1. The Department's determination is not upheld.
2. The Department shall re-open and process the Claimant's MA application dated July 10, 2009 in accordance with department policy.
3. The Department shall notify the Claimant and her attorney in writing of the determination in accordance with department policy.

4. The Department shall supplement for any lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 5/26/2010

Date Mailed: 5/26/2010

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 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.

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