

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.: 20109762
Issue No.: 2006
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 30, 2010
Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 30, 2010. The claimant's authorized hearing representative, [REDACTED] of [REDACTED], appeared and testified on behalf of Claimant; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly denied Claimant's 9/29/09 application for Medical Assistance (MA) benefits due to a failure by Claimant to verify required information.

FINDINGS OF FACT

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

1. On 9/29/09, Claimant, through Claimant's representative/guardian (Exhibit 4), applied for MA benefits including a request for retroactive MA benefits back to 6/2009. Exhibit 3.
2. On 10/21/09, DHS mailed Claimant's representative a Verification Checklist (Exhibit 1) requesting verification for the following: unearned income burial resources and assets.

3. On, or before 11/2/09, Claimant's representative contacted DHS to explain that the unearned income concerned payments for black lung and Retirement, Survivors, Disability Insurance (RSDI) income which was difficult to verify.
4. On, or before 11/2/09, Claimant's representative faxed information concerning Claimant's burial resources which indicated that Claimant paid for a gravesite for himself and his mother. Exhibit 6.
5. Claimant's representative submitted two bank statements (Exhibit 6) with Claimant's application which verified Claimant's bank account information.
6. On 11/3/09, DHS mailed Claimant's representative a Notice of Case Action (Exhibit 2) denying Claimant's request for MA benefits due to a failure to verify unearned income, burial assets and bank account information.
7. On 11/16/09, Claimant requested a hearing concerning the DHS denial of MA benefits.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) 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 (PRM).

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 at 1. Verification is usually required at application or redetermination. *Id.*

For MA benefits, clients are given 10 calendar days to provide requested verification. If the client cannot provide the verification despite a reasonable effort, the time limit can be extended up to three times. *Id.* at 6.

DHS must assist with obtaining verifications if a client requests and needs help. If verification is not obtained despite a client's reasonable effort, specialists may use the best available information as a substitute. If no evidence is available, then specialists may use their best judgment as a substitute. *Id.* at 3.

The present case deals with a claimant who was cognitively disabled. Claimant was so disabled that a guardianship (Exhibit 4) was eventually awarded to Claimant's

authorized representative. Claimant's authorized representative/guardian was the nursing home where Claimant resided. Claimant's authorized representative attempted to honestly report information as given by the disabled claimant; however, due to Claimant's cognitive limits, some of the information was vague, questionable and difficult to verify.

DHS denied Claimant's application for MA benefits due to a failure to verify three items: unearned income, burial resources and a bank account. All of the items are required to be verified at application. A failure to verify any of the items would appropriately result in denial of the application.

Claimant had two sources of unearned income that his representative had difficulty verifying, a monthly Social Security income based on Claimant's status as a disabled adult child and a black lung income. Claimant's representative credibly testified that DHS was contacted prior to the denial of MA benefits about the difficulty in obtaining verifications for the incomes despite a reasonable effort. DHS could not conclusively rebut that Claimant's representative made no such efforts. It is found that DHS could have, and should have, extended the 10 day time limit to submit verifications based on the representative's difficulty in verifying the income.

Regarding the burial resource, Claimant's representative credibly testified that she faxed a letter (Exhibit 6) which identified the resource as a burial plot for Claimant and a family member. She also testified that the letter was faxed prior to the DHS denial date. Claimant's representative was unable to verify the transmission with a fax confirmation. DHS could not rebut the testimony of the representative. Based on the representative's general credibility, it is found that Claimant sufficiently verified the burial resource.

The last verification in issue concerned a bank account for Claimant. Claimant's representative credibly testified that she submitted the bank statements (Exhibit 5) with the application for MA benefits. DHS did not have Claimant's case file and was unable to rebut the representative's testimony. It is found that the bank account was verified prior to denial of the MA benefits.

It is found that Claimant's representative verified Claimant's burial resource and bank account prior to the DHS denial and that DHS should have given Claimant's representative additional time to verify Claimant's unearned income. The remedy for the DHS failure to extend the verification time limit is to allow Claimant additional time to provide any needed verifications.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied

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Claimant's application for MA benefits. It is ordered that DHS reregister Claimant's 9/29/09 application for MA benefits, including Claimant's request for retroactive benefits, and to process the application in accordance with DHS regulations and the findings of this decision.

/s/



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: September 8, 2010

Date Mailed: September 8, 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.

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