

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

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| IN THE MATTER OF: | | Reg. No: | |
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ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 [REDACTED]. The Claimant's representative, [REDACTED] appeared and provided testimony.

ISSUE

Did Claimant make a reasonable effort to cooperate with the Department in determining her MA eligibility?

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's representative filed an application for Medical Assistance on [REDACTED] as the Claimant is in a nursing home. (Department Exhibit 1, pgs. 3-6).
2. The Claimant's representative is a court appointed guardian for Claimant. (Department Exhibit pg 15).
3. The Department sent a DHS 3503 Verification Checklist on [REDACTED] [REDACTED] 7-9).
4. Between August and [REDACTED] the Guardian attempted to obtain the requested verification despite difficulties with the Claimant's daughter. (Department Exhibit 1, pgs 10-16).

5. The Guardian was unable to obtain information regarding insurance policies, bank account, and pension because the Claimant's adult daughter was uncooperative.
6. On [REDACTED] the Claimant was sent a Notice of Case action denying the MA application for failure to provide verifications. (Department Exhibit 1, pgs 18-20).
7. On [REDACTED] the Department received the Claimant's Request for Hearing.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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), Reference Table Manual (RFT), State Emergency Relief Manual (ERM) and the Bridges Reference Manual (BRM).

Department policy states:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This

includes completion of the necessary forms. BAM, Item 105, p. 5.

Refusal to Cooperate Penalties
All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM, Item 105, p. 5.

Verifications
All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, Item 105, p. 8.

Assisting the Client
All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM, Item 105, p. 10.

Verification is usually required at application /redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

Obtaining Verification
All Programs

Tell the client what verification is required, how to obtain it and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2-3.

The client must obtain required verification, but you must assist if they need and request help. BAM, Item 130, p. 3.

Timeliness Standards
All Programs (except TMAP)

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. BAM, Item 130, p. 5.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM, Item 130, p. 5.

BAM 130 Discrepancies All TOA

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

In this case, Claimant's guardian attempted to obtain all of the requested verifications. The Claimant's adult daughter's name was on a couple of the bank accounts. Therefore, the Bank was unwilling to provide the guardian with the bank account information without a release from the adult daughter. The adult daughter would not cooperate with the Guardian. The Guardian kept the Department informed of the difficulties that they were having in obtaining the required verifications. The Department allowed an extended period of time to obtain the required verifications. The Department finally denied the application because the verifications necessary to determine the Claimant's assets were not available. The Guardian eventually obtained a court order requiring the banks to provide the information. The Guardian has subsequently provided the necessary verifications to the Department. It is found that between the Department's request in August and the case closure in October, the Guardian made reasonable efforts to obtain the missing information. In conclusion, this Administrative Law Judge cannot find that Claimant failed to make a reasonable effort to provide verification to determine her MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that Claimant made a reasonable effort to provide verification needed to determine her MA eligibility.

Accordingly, the department's MA action is REVERSED. The department shall:

1. Reprocess the Claimant's [REDACTED] application in accordance with Department policy.
2. Issue any retroactive MA benefits the Claimant is otherwise eligible to receive.

SO ORDERED.

_____/s/ [REDACTED]

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

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.

[REDACTED]