

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: 20117773
Issue No: 2021
Hearing Date: March 29, 2011
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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 March 29, 2011. Claimant appeared in person. Claimant's representative appeared by conference phone.

ISSUE

Did the DHS properly deny claimant's January 11, 2010 MA application on the grounds of 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 January 11, 2010, claimant's representative applied for MA.
2. Claimant applied for three months retro MA. Claimant's representative stipulates that there was no eligibility for October 2009.
3. On January 28, 2010, the DHS mailed a DHS 3503 requesting verifications.
4. Among claimant's assets claimant a CD and an IRA and cash totaling approximately [REDACTED] in November, 2009.
5. Verifications submitted on behalf of claimant included extensive receipts and handwritten notes with regard to withdrawals and accountings of the money withdrawn and how it was spent.

6. The department drew up a matrix of receipts for the disbursements of the funds. The columns show receipts of [REDACTED]; ATM withdrawals of [REDACTED]; money orders for [REDACTED]; with a grand total of [REDACTED]. These second and third figures-- [REDACTED] and [REDACTED] were cash withdrawals which were not accounted for.
7. On June 18, 2010, the DHS issued a 1605 Denial Notice for excess assets.
8. On June 24, 2010, claimant requested a hearing.
9. On September 2, 2010, claimant's representative requested a hearing.

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).

MA asset policy and procedure is found primarily in BEM Item 400. Also applicable herein are BAM Items 105 and 110.

The asset limit in this case is for Group 2 Caretaker Relative [REDACTED]. BEM Item 400.

BEM Item 400 identifies assets as consisting of numerous types of accounts/funds/warrants/currency/etc. Specific to the case herein, assets include for the SSI-related MA program cash which includes money/currency, uncashed checks, drafts, warrants; checking and draft accounts; saving and share accounts; money market accounts. Also in BEM Item 400, the department is required to count money held in an IRA as an asset.

General verification policy and procedure is found in numerous items. This policy states in part:

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.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, Item 105, p. 5.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. PAM, 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. PAM, Item 105, p. 5.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. PAM, Item 105, p. 7.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, 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. PAM, Item 105, p. 9.

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. PAM, Item 130, p. 2.

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. PAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. PAM, Item 130, p. 4.

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.

Verification is **not** required:

- . when the client is clearly ineligible, or
- . for excluded income and assets **unless** needed to establish the exclusion. PAM, Item 130, p. 1.

In order for individuals to establish eligibility for the welfare program with the Michigan DHS, federal law is quite specific with regards to requiring that the recipient's file correctly reflect all verifications to establish eligibility. Failure of the department to establish the same can result in significant financial penalties for numerous welfare programs.

In this case, the department did not find that claimant's accounting of the disbursement and use of the cash correctly and accurately reflected the reduction and disposition of the cash amounts. Specifically, [REDACTED] as well [REDACTED] were not accounted for.

This Administrative Law Judge has reviewed the credible and substantial evidence on the record. This Administrative Law Judge does not dispute the vagueness of the actual disbursements and accounting for the cash amounts which are in excess of the Group 2 Caretaker Relative SSI-Related MA asset limit of [REDACTED]. Under the above-cited authority, the department is required to ensure specific verifications to reflect eligibility. This Administrative Law Judge finds that claimant's accounting and verification does not satisfy the necessity for verification and thus, the department's denial is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's denial of claimant's January 11, 2010 MA application and November, 2009 retro month was correct and it is hereby UPHELD.

/s/

Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 11, 2011

Date Mailed: April 11, 2011

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.

JGS/db

cc:

