

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED] Case

Reg. No.: 2011-41544
Issue No.: 2007
No.: 114344207
Hearing Date: [REDACTED]
DHS County: Wayne (82)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; M SA 16.437 upon the claimant's request for a hearing. After due notice, a telephone hearing was held from Detroit, Michigan on August 24, 2011. The claimant was represented by his guardian.

ISSUE

Did the Department of Human Services (Department) properly deny the claimant's Medical Assistance (MA), and retroactive MA applications?

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 October 4, 2010, the claimant filed an application for MA.
2. On November 8, 2010, the Department denied the claimant's application for lack of verification.
3. The Department reregistered and reprocessed the application because notice had not been sent to the claimant guardian.
4. On April 6, 2011, the Department sent a new verification checklist to the claimant through his guardian, requesting asset documentation from the claimant's spouse.
5. The claimant's spouse not only refused to provide such documentation but also removed the claimant from the nursing facility where he was living.

6. On May 21, 2011, the Department again denied the claimant's MA application for lack of verification.
7. On June 8, 2011, the claimant's guardian filed a request for 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 (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 Bridges Reference Manual (BRM).

At the hearing the Department verified what was written in its hearing summary. The Department stated that it had not provided the claimant with all of the proper forms to be completed and returned.

Obtaining Verification

All TOA

Tell the client what verification is required, how to obtain it, and the due date; (BAM 130, p. 2).

This Administrative Law Judge finds that the verification requested by the Department is not obtainable at the present time. This Administrative Law Judge also finds that the Department was aware of this inability prior to its denial of the claimant's MA.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. (BAM 130, p. 3).

In the instant case the Department knew that the claimant's spouse was being recalcitrant and either should have used the information it had or use its best judgment.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, **REVERSES AND ORDERS** the Department to reregister and process the

claimant's October 4, 2010, MA application and assist the claimant in obtaining the information being requested or use its best judgment.

Michael
Administrative
for
Department



J. Bennane
Law Judge
Maura Corrigan, Director
of Human Services

Date Signed: September 8, 2011

Date Mailed: September 8, 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.

MJB/cl

cc:

