

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

IN THE MATTER OF:



Reg. No.: 201348915
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: August 1, 2013
County: Wayne County (#82)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted on Thursday August 1, 2013 from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED] (Authorized Representative), [REDACTED] (Nursing Facility Representative) and [REDACTED] (Nursing Facility Supervisor). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Family Independence Manager).

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

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 April 26, 2013, Claimant applied for MA benefits.
2. On May 14, 2013, the Department denied Claimant's application for MA benefits.
3. On May 14, 2013, the Department sent Claimant's Authorized Representative (AR)

notice of the denial.

4. On May 22, 2013 , Claimant filed a hearing request, protesting the denial of the MA application.

CONCLUSIONS OF LAW

The Department of Human Services (DHS) policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

☒ 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.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105 (October 2010), p. 1. The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. BEM 105, p. 1. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive MA under FIP-related categories. BEM 105, p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled.

Assets and net income must be considered in determining eligibility for SSI-related MA categories. An applicant's assets and income must be at or below a certain level for eligibility to exist. For a married individual the spouse is part of the fiscal group whose income and assets must be considered. The Department is required to do an initial asset assessment to determine how much of a couple's assets are protected for the community spouse as of the first day of the first continuous period of care when requested or an MA application is filed. BEM 402 (January 2013), p. 6. An initial asset assessment **cannot** be completed if a client or his spouse refuses to provide a verification or has **not** made a reasonable effort to obtain it within the time standards provided by policy. BEM 402, p. 7.

If the community spouse's whereabouts are unknown (a couple separated prior to the client entering an LTC/hospital setting and the client does not know where the spouse is living or how to contact the spouse), the client's countable assets are compared to the appropriate asset limit to determine eligibility. However, refusal of the community spouse to provide necessary information or verification about his assets results in ineligibility for the client. BEM 402, p. 9.

In this case, Claimant's Authorized Representative (AR) submitted an MA application on Claimant's behalf. The AR is Claimant's daughter who has been appointed full guardianship because Claimant is deemed legally incapacitated ,and currently is in a


long term care (LTC) facility. Claimant is married but separated from the spouse. The spouse's whereabouts is known, and the Department representative spoke directly with the spouse by telephone to obtain information necessary to do an initial assessment to determine Claimant's eligibility for MA benefits. The spouse refused to provide any asset information to the Department. As a result, the Department denied the Claimant's MA application pursuant to policy. While the undersigned does sympathize with the position of the Claimant, there is no jurisdiction to change or alter Department policy or state law. Current policy does not provide for an exception to the asset rules under the circumstances of Claimant's case. The AR testified that she is in the process of filing a divorce on behalf of Claimant, but it has not been finalized. A new application may be filed at any time if circumstances change.

Accordingly, the Department's action is **UPHELD**.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department established that it did act properly when it denied the MA application for failure to provide information necessary to determine eligibility.

Accordingly, the Department's MA determination is hereby, **AFFIRMED**.



Michelle Howie
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 8/19/2013

Date Mailed: 8/19/2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

MH/hw

cc:

