

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201326302
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Genesee-06

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

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 June 6, 2013. Claimant appeared and testified. Claimant's Attorney [REDACTED] also appeared. The Department was represented by [REDACTED] and [REDACTED] Assistant Attorney General [REDACTED] appeared for the Department. Witnesses [REDACTED] and [REDACTED] also appeared for the Claimant.

ISSUE

Was the Department correct in denying Claimant's Medical Assistance application for failing to provide asset verifications?

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 applied MA benefits for patient of a nursing facility on October 15, 2012.
- (2) On October 17, 2012 a Verification Checklist was sent requesting asset verifications for a [REDACTED] account and VA compensation.
- (3) On October 30, 2012 [REDACTED] requested an extension regarding the asset verifications. This extension was granted and the deadline was extended to November 8, 2012.
- (4) A second extension was requested on November 8, 2012. This was granted and the deadline was extended to November 19, 2012.

- (5) On November 13, 2012 Claimant's guardian [REDACTED] contacted the Department requesting assistance in obtaining the asset verifications.
- (6) On November 19, 2012 a 3rd extension was given with a November 29, 2012 due date.
- (7) On November 30, 2012 the Department denied the application for failure to verify assets.
- (8) Claimant requested hearing on January 22, 2013 contesting the denial of MA.
- (9) Claimant filed another application for MA in January 2013 that was approved back to November 2012. All asset verifications that were the basis of this hearing have been received by the Department.

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 Program Reference Manual (PRM). 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) and the Program Reference Manual (PRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The questionable information might be from the client or a third party. *Id.* The Department can use documents, collateral contacts or home calls to verify information. *Id.* The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 4.

In the present case, Claimant's guardian, Claimant's Authorized Representative and the Department made efforts to obtain the required asset verifications from Wells Fargo and the Veteran's Administration. Claimant's guardian even requested assistance from the Department in obtaining the verifications and assistance was provided by the Department. Upon the expiration of the third extension the required verifications had not yet been received by the Department. Pursuant to Department policy, the Department


denied the application for failing to verify assets when the verifications were not received upon the expiration of the final verification checklist. BAM 130

The Claimant's attorney argued that further extensions should have been given due to unusual circumstances because Claimant is disabled and incapacitated. Claimant's attorney cited US C sec.435.911 in support of this position. Claimant's attorney further argued that the issue has been cured because all required verifications have been received by the Department prior to hearing. Claimant's attorney also argued that Claimant's guardian made a reasonable effort to obtain the asset verifications and that a determination should have been made based on the best available information. Claimant's attorney also argued that since the standard of promptness was not met in processing the appeal and automatic approval is required under the federal regulations and established case law.

This Administrative Law Judge cannot find that Claimant refused to cooperate or failed to make a reasonable effort to cooperate. Claimant's guardian made reasonable efforts to obtain the requested verifications and requested assistance from the Department as outlined in Department policy. Therefore the Department was in correct to deny Claimant's MA application for failing to return verifications. BAM 130

DECISION AND ORDER

Therefore based on the forgoing findings of fact and conclusions of law it is ORDERED that the Department decision to deny Claimant's MA application for failing to return verifications is **REVERSED**. Claimant's application shall be reinstated and reprocessed going back the date of application. MA benefits shall be activated going back to the date of application and for the retroactive months if Claimant is otherwise eligible.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 28, 2013

Date Mailed: June 28, 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 affect the substantial rights of the claimant,
 - 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
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

AM/pew

cc:

