

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-009399
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: October 9, 2014
County: EATON

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on October 9, 2014, from Charlotte, Michigan. Participants on behalf of Claimant included Claimant and her friend, [REDACTED]. [REDACTED] participated via telephone on Claimant's behalf. Participating on behalf of the Department of Human Services (Department) was Hearings Facilitator [REDACTED].

ISSUE

Did the Department properly deny Claimant's application for Medical Assistance (MA)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for MA on January 16, 2014.
2. In her application, Claimant reported that she was receiving income from a land contract. (Exhibit 1 Pages 46 and 47.)
3. A Verification Checklist (VCL) was mailed to Claimant on February 4, 2014, and again on February 12, 2014, requesting verification of the balance due on the land contract, as well as monthly payments Claimant was receiving. (Exhibit 1 Pages 49-50 and 51-52.)
4. On [REDACTED], [REDACTED] sent a letter to the Department (Exhibit 1 Page 14) stating they were "attempting to obtain verification of [REDACTED] land contract or

verification that he (sic) name has been removed off the contract . . ." [REDACTED] also requested an extension of the deadline for complying with the VCL.

5. On [REDACTED], [REDACTED] sent another letter (Exhibit 1 Page 16) stating they had the divorce documents "showing that [REDACTED] ex-husband was ordered by the court to remove her name off the mortgage on the house that is now under land contract at the time of their divorce."
6. On April 23, 2014, the Department denied Claimant's application after not receiving verification of the land contract details.
7. On [REDACTED], [REDACTED] sent another letter (Exhibit 1 Page 23) reporting that Claimant had provided them "with a copy of her divorce decree and per their divorce decree [REDACTED] ex-husband was ordered to remove her name from their property; however we recently spoke with [REDACTED] and she informed our office that her ex-husband has not removed her name from the property and also that he is currently still living at the property. Per BAM 130, page 3, if neither the client, nor our office, nor your office can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment."
8. On July 25, 2014, the Department received Claimant's hearing request.

CONCLUSIONS OF LAW

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

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

"Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews." BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges

document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

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.

The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the VCL was mailed to the Claimant at her address of record. The issue then, is whether she timely responded, or made a reasonable effort to respond timely. If she did not, then the issue is whether the Department used the best available evidence.

During the hearing, it became clear that the land contract was not an asset. Claimant and her former husband had purchased a home on land contract. In the Judgment of Divorce (Exhibit A), the home was awarded to the husband, and he was to pay Claimant ██████ for her interest in the home. He eventually paid it, probably back in 2009. Claimant had quit claimed her interest in the home to her former husband, and her only "interest" in the property was that her name was on the mortgage and note. Instead of being an asset that would have provided her with income, it was actually a liability.

Claimant made a mistake when she completed the application. She made the mistake in her attempt to truthfully disclose everything to the Department. Unfortunately, she reported that she had an interest in a land contract, which in normal circumstances would have meant that there was a principal balance that was being paid to her, with interest, on some periodic basis.

The Department asked Claimant – and ██████ – to provide a copy of the divorce judgment. It was finally provided at the hearing. ██████ had told the Department back in June that they had a copy of the judgment, but they did not actually have it. Claimant finally obtained a copy from the Court within the last month. The Department gave several extensions for her to provide the documentation while her case was being reviewed by the Medical Review Team. Eventually, the Department had to make a decision. Because she had not provided the divorce judgment or any other documentation to show the "value" of the land contract, they had to deny her application.

██████ believes the Department should have used the best available evidence. ██████ had submitted a copy of one page of a motion that was filed in Claimant's divorce case, asking the Court to order her ex-husband to pay her ██████ which was "the balance due to Plaintiff for her share of the equity in the marital home . . ." (Exhibit 1 Page 29.) They

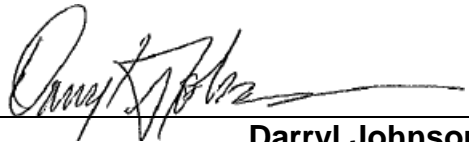
did not provide the entire motion. They did not provide any order that was entered by the Court on the motion. They did not provide anything to show that the balance had been paid. With the information available, the Department could reasonably have inferred that she was still owed [REDACTED] for her equity in that home.

The evidence also establishes that the Claimant did not fully respond or make a reasonable effort to respond by the deadline. Because Claimant has not produced evidence to show that she responded – or made a reasonable effort to respond - timely and fully to the VCL, the undersigned is persuaded that Claimant did not comply timely, and did not make a reasonable effort to comply timely. The best available evidence would indicate she was still owed money by her ex-husband.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Claimant's application for benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.


Darryl Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/10/2014**

Date Mailed: **10/10/2014**

DJ/jaf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;

- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CC:

