

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-000913
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: March 26, 2015
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on Thursday, March 26, 2015, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's brother and Power of Attorney (POA), [REDACTED], his Attorney, [REDACTED], P# [REDACTED] from [REDACTED], [REDACTED], and [REDACTED] Nursing Home Business Office Director. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Eligibility Specialist, [REDACTED], Family Independence Manager, and Assistant Attorney General, [REDACTED], P# [REDACTED]

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application for Medical Assistance?

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 June 11, 2014, the Claimant through his POA applied for MA where the Claimant is mentally and medically unable assist. Department Exhibit 63-73.
2. The Claimant has a community spouse.
3. On July 16, 2014, the Department Caseworker sent a Verification Checklist, DHS 3503, for asset verification that was due by July 29, 2014. Department Exhibit 44-45.
4. On September 26, 2014, the Department Caseworker asked for an exception request from the Department of Community Health because the Claimant's community spouse was unwilling and uncooperative in providing the required

requested asset verifications to process the Initial Asset Assessment. Department Exhibit 26-58.

5. On October 15, 2014, the DCH denied the Department's exception request citing that the community spouse has provided no reason for her noncooperation. The Claimant and his community spouse remain responsible for their outstanding medical bills. No evidence of undue hardship was provided because the Claimant is still in long term care receiving care. Department Exhibit 23.
6. On October 16, 2014, the Department denied the Claimant's application for MA for failure to provide required asset verifications and sent the Claimant/Claimant's Authorized Representative (AR) notice of its action. Department Exhibit 75-80.
7. On January 13, 2015, the Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, On June 11, 2014, the Claimant through his POA applied for MA where the Claimant is mentally and medically unable assist. Department Exhibit 63-73. The Claimant has a community spouse. On July 16, 2014, the Department Caseworker sent a Verification Checklist, DHS 3503, for asset verification that was due by July 29, 2014. Department Exhibit 44-45. On September 26, 2014, the Department Caseworker asked for an exception request from the Department of Community Health because the Claimant's community spouse was unwilling and uncooperative in providing the required requested asset verifications to process the Initial Asset Assessment. Department Exhibit 26-58.

On October 15, 2014, the DCH denied the Department's exception request citing that the community spouse has provided no reason for her noncooperation. The Claimant and his community spouse remain responsible for their outstanding medical bills. No evidence of undue hardship was provided because the Claimant is still in long term care receiving care. Department Exhibit 23. On October 16, 2014, the Department denied the Claimant's application for MA for failure to provide required asset verifications and

sent the Claimant/Claimant's Authorized Representative (AR) notice of its action. Department Exhibit 75-80. BEM 402, 400, and 100. BAM 100.

During the hearing, the Claimant's attorney argued that the Claimant should be eligible for an exception request because the Claimant's community spouse after several contacts from the Department and the Claimant's brother has not complied with the asset verification requests. The Department cannot require that the Claimant get a divorce from his wife in order to be eligible for MA. The Claimant's brother as POA has done the best he can to provide the information that he had access to. The Assistant Attorney General responded that the information provided was not sufficient to determine the Claimant's eligibility for MA. Policy does allow the Department to ask DCH for an exception request, which was denied. The Department is unable to determine asset eligibility for MA.

This Administrative Law Judge finds that Department properly processed the Claimant's application. In addition, they gave numerous extensions to give the parties additional time to provide the required requested asset verifications. When the information was not provided as is allowed in policy, the Department requested an exception request from DCH, which was denied.

As a result, the Department properly denied the Claimant's MA application dated June 11, 2014. The Department is required to determine asset eligibility for MA. If the Department does not have the required asset verification, they cannot determine whether or not the Claimant is eligible for MA. The Department is not requiring the Claimant to divorce his wife or for the Claimant's brother to apply for guardianship or conservatorship over the Claimant. The Department can only request the required information to determine asset eligibility. Since the asset information was not provided by the due date, the Department correctly denied the Claimant's application because asset information requested was not provided by the due date and the Department cannot determine asset eligibility for MA. This is a simple issue of failure to provide verifications.

The Administrative Law Judge, based on 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 the Claimant's MA application for failure to provide required asset verifications.

DECISION AND ORDER

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



Carmen G. Fahie
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/24/2015**

Date Mailed: **4/24/2015**

CGF/las

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

