

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201337866
Issue No: 2006
Case No: [REDACTED]
Hearing Date: August 7, 2013
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on March 25, 2013. After due notice, a telephone hearing was held on August 7, 2013. Claimant appeared at the hearing and provided testimony. The department was represented by [REDACTED], an assistance payments supervisor, and [REDACTED] an eligibility specialist, both with the department's Washtenaw County office.

ISSUE

Whether the department properly denied Claimant's application for Medical Assistance (MA) benefits due to Claimant's failure to verify necessary information?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. On December 28, 2012, Claimant applied for MA benefits.
2. In processing Claimant's MA application, the department conducted an SOLQ computer inquiry, which revealed that Claimant receives a monthly Social Security benefit that is direct-deposited to a checking account.
3. On February 1, 2013, the department mailed Claimant with a Verification Checklist (DHS-3503), requesting, among other things, verification of checking account. This information was due to the department by February 11, 2013. (Department Exhibit 1)
4. Claimant timely provided the department with his handwritten statement that he does not have a checking account.

5. On March 19, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605) advising Claimant that his application for MA benefits had been denied due to his failure to verify necessary information. (Department Exhibit 2)
6. On March 21, 2013, Claimant submitted a hearing request protesting the department's denial of his application for MA benefits. (Request for a Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

Department policy provides that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. Department policy further provides that clients must take actions within their ability to obtain verifications and Department staff must assist when necessary. BAM 130, BEM 702. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130. For MA, the client is allowed 10 calendar days (or other time limit specified in policy) to provide the verification requested. If the client cannot provide the verification despite a reasonable effort, the time limit is extended up to three times. BAM 130. The department should send a negative action notice when (i) the client indicates a refusal to provide a verification; or (ii) the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130.

Department policy further provides that, for purposes of determining MA eligibility, an acceptable verification source for verifying an individual's Direct Express Account includes a statement from Direct Express, however the client may have to pay for the statement. BEM 400, p. 44.

In this case, the department provided Claimant with a Verification Checklist, requesting that Claimant provide verification of his checking account by no later than February 11, 2013 in order that the department may determine Claimant's MA benefit eligibility. And, while Claimant timely submitted a handwritten statement indicating that he does not have a checking account, the department denied Claimant's MA application on March 19, 2013 for failure to verify necessary information.

At the August 7, 2013 hearing, the department's representative and Claimant's case worker, Sha'Re Clayton, acknowledged having timely received Claimant's handwritten statement prior to the February 11, 2013 verification deadline that he does not have a checking account. Ms. Clayton further acknowledged that she did not advise Claimant at any time following her receipt of his handwritten statement and the department's March 19, 2013 denial of Claimant's MA application that, if he had a Direct Express account for purposes of receiving a direct deposit of his Social Security benefits, he could obtain a statement from Direct Express and this would be an acceptable verification source.

Also at the August 7, 2013 hearing, Claimant testified that he left two or three voicemails for Ms. Clayton at the numbers he provided on the Verification Checklist, advising her that he did not have a checking account and requesting her assistance in how he could comply with the verification request – and Ms. Clayton never returned his calls. In response to this, Ms. Clayton testified that Claimant should have instead emailed her if he needed assistance. However, the Verification Checklist that Ms. Clayton mailed to Claimant specifically advised him to “[c]all [her] right away if [he had] questions or problems getting the proofs.” (Department Exhibit 1) The Verification Checklist further advised “[w]e may be able to help you get the proofs if you ask for help.” Finally, the Verification Checklist included only Ms. Clayton's telephone and fax numbers and did not include her email address.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented during the August 7, 2013 hearing, because Claimant timely advised the department that he did not have a checking account and because he timely requested assistance in complying with the verification request by calling his case worker as he was instructed to do in the Verification Checklist, Claimant made a reasonable effort to provide the required verification pursuant to BAM 130. Accordingly, the department did not act in accordance with policy in denying Claimant's application for MA benefits for failure to provide the required verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act in accordance with policy in denying Claimant's application for MA benefits for failure to provide the required verification. Accordingly, the department's actions in this regard are **REVERSED** and the department shall immediately reinstate and reprocess Claimant's December 28, 2012

application for MA benefits and issue supplement checks for any months Claimant did not receive the correct amount of such benefits if he was otherwise entitled to them.

It is **SO ORDERED**.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 9, 2013

Date Mailed: August 9, 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.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

A request for a rehearing or reconsideration must be submitted through the local DHS office or directly to MAHS by mail at:

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

201337866/SDS

SDS/hj

cc:

