

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

IN THE MATTER OF:

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Reg. No.: 2013-67733
Issue No(s) .: 2006;2018
Case No.: ██████████
Hearing Date: October 30, 2013
County: Wayne (82)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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, a telephone hearing was held on October 30, 2013, from Detroit, Michigan. Claimant was not present. Participants on behalf of Claimant included his guardian and authorized representative, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Manager and ██████████, Eligibility Specialist.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Program (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 upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for received:
 FIP FAP MA AMP SDA CDC
benefits.

2. Claimant was required to submit requested verification by August 29, 2013.
3. On October 1, 2013, the Department
 - denied Claimant's application.
 - closed Claimant's case.
 - reduced Claimant's benefits.
4. On August 30, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.
5. On September 4, 2013, 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 Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Medicare Savings Programs (MSP) are SSI-related MA categories. Claimant was an ongoing recipient of MA under the Qualified Medicare Beneficiaries (QMB) category of the MSP. BEM 165 (October 2013), p. 1. QMB pays Medicare premiums, Medicare coinsurances and Medicare deductibles. BEM 165, p. 2.

Additionally, the Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (July 2013), p 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2013), p.1. To request verification of information, the Department sends a Verification Checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, pp. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications

up to three times. BAM 130, p. 6. Verifications are considered to be timely if received by the date they are due. BAM 130, p.7. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7.

In this case, the Department testified that in connection with a redetermination, Claimant's eligibility to receive MA and MSP benefits was reviewed. The Department stated that on August 19, 2013, it sent Claimant a VCL requesting that verification of the closure of his Bank One account and asset information be submitted by August 29, 2013. (Exhibit 1). The Department testified that because it did not receive the requested verifications by the due date, on August 30, 2013, it sent Claimant a Notice of Case Action, informing him that his MA and MSP cases would be closed effective October 1, 2013 based on a failure to verify asset information. (Exhibit 1, pp.1-2).

At the hearing, Claimant's representative testified that in response to the VCL, she sent the Department a letter dated August 28, 2013, which informed the Department that she is unable to provide verification of the closed account at Bank One because it is still open as a Client Trust Account for many of her other clients. The Letter also informed the Department that Claimant's funds are no longer being held in that account at Bank One and that they have been transferred to a SSA Pooled Client Trust Account with Comerica Bank, which Claimant's representative verified. The Letter concludes we want to assist any way we can but cannot show the account as closed as it is still open. (Exhibit 1, pp. 9-11).

According to BEM 400, if money is being held for a client by another person, the Department can accept a written statement from the person holding the money as verification of an asset. BEM 400 (October 2013), p. 58. Here, Claimant's attorney submitted a letter informing the Department that the Bank One account for which they were requesting that she submit proof of account closure was not closed. The account remained open for her other clients and contained those clients' personal and confidential information. The letter should serve as sufficient verification of the status of the account and the fact that Claimant no longer has funds in that account. The Department should have treated the letter as a written statement from Claimant's attorney, as she is the person holding funds on his behalf.

Additionally, Claimant did not indicate a refusal to provide the verification; rather, the verification requested was not possible to retrieve, as the account was not closed. Claimant's attorney made a reasonable effort to obtain the verifications and submitted a letter explaining the situation to the Department. At that point, the Department should have used the best available information to review Claimant's eligibility for MA and MSP benefits. BAM 130, p. 3.

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 did not act in accordance with Department policy when it closed Claimant's MA and MSP cases for failure to provide verification of assets, as Claimant's attorney timely responded to the VCL and provided the Department with the best available information, as required under policy.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's MA and MSP cases effective October 1, 2013;
2. Issue supplements to Claimant for any MA and MSP benefits that he was entitled to receive but did not from October 1, 2013, ongoing; and
3. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 13, 2013

Date Mailed: November 13, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]