

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201413021
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: December 18, 2013
County: Calhoun

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 December 18, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Assistance Payments Supervisor).

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) or "Medicaid" case and Medicare Savings Program Specified Low-Income Medicare Beneficiaries (SLMB) case due to Claimant's failure to properly return requested verifications?

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 was active for the Medicaid-Group 2 Aged, Blind, Disabled and Medicare Savings Program (MC-SLMB).
2. On June 19, 2013, Claimant received [REDACTED] from a worker's compensation settlement.

3. On October 9, 2013¹, Claimant hand-delivered to the Calhoun County DHS an Affidavit in Support of Redemption (Settlement) Agreement (WC-119). Claimant's settlement amount had been redacted.
4. On October 17, 2013, the Calhoun County DHS received a Worker's Settlement Statement (WC-544).
5. On October 17, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503) which requested Claimant provide the Department with: (1) worker's compensation court records, (2) letter or document from person/agency making payment, (3) award letter or recent check stub(s), and (4) "receipts showing how [the worker's compensation settlement money] was spent. If you have the receipts that this money was spent paying your bills and such, then it will not close your case." The verifications were due by October 28, 2013.
6. On October 29, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's MC-SLMB and Medicaid Group 2 Aged, Blind, Disabled cases due to failure to return verification of lump sum worker's compensation.

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 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 are SSI-related MA categories and are neither Group 1 nor Group 2 categories. BEM 165, page 1 (10-1-2013). There are three categories that make up the Medicare Savings Programs. BEM 165. The three categories are: (1) Qualified Medicare Beneficiaries. This is also called full-coverage QMB and just QMB. Program group type is QMB. BEM 165. (2) Specified Low-Income Medicare Beneficiaries. BEM 165. This is also called limited-coverage QMB and SLMB. BEM 165. Program

¹ Apparently, Claimant requested a hearing regarding Food Assistance Program (FAP) benefits which was heard in early October, 2013. The Department contends that during the prehearing conference for the FAP issue, Claimant first reported receiving a worker's compensation settlement.

group type is SLMB. BEM 165. (3) Q1 Additional Low-Income Medicare Beneficiaries. This is also referred to as ALMB and as just Q1. BEM 165. Program group type is ALMB. BEM 165.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. The Department sometimes will utilize a verification checklist (VCL) or a DHS form telling clients what is needed to determine or redetermine eligibility. See Bridges Program Glossary (BPG) at page 47. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130.

For MA, the client has 10 days to provide requested verifications (unless policy states otherwise). BAM 130. If the client cannot provide the verification despite a reasonable effort, the department worker may extend the time limit up to three times. BAM 130.

Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

Here, the Department submits that Claimant received a lump sum worker's compensation settlement check in June, 2013 which he first reported to the Department in early October, 2013. According to the Department representative who attended the hearing, Claimant mentioned the settlement check during a prehearing conference regarding a FAP hearing request in another matter. The Department argues that it mailed Claimant a verification checklist requesting receipts regarding the disposition of his worker's compensation funds, but that Claimant failed to turn in any receipts before the October 28, 2013 due date. Claimant, on the other hand, does not dispute receiving the check in the amount alleged and contends that the Department was aware of his worker's compensation claim all along. Claimant testified that he timely reported his settlement check to his caseworker (██████████) on June 28, 2013, but then later stated that he may have reported this to his previous caseworker (who was a male). Claimant did not dispute that he failed to turn in all receipts regarding his worker's compensation claim and testified that he is still gathering receipts regarding the disposition of his proceeds.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. There is no dispute that Claimant failed to turn in all requested verifications before the October 28, 2013 due date. The Department actually extended the due date for Claimant although he did not request an extension. Claimant admitted that he did not return all receipts to the Department. Claimant was vague and sometimes elusive when the Administrative Law Judge questioned him about how he distributed his worker's compensation settlement check. This Administrative Law Judge does not need to determine whether Claimant timely reported the worker's compensation settlement proceeds as he failed to properly return requested verifications. As such, the Administrative Law Judge does not need to address the issue concerning whether Claimant had excess assets as the Department properly closed his Medicaid and SLMB cases for failure to return 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 closed Claimant's Medicaid and SLMB cases for failure to return verifications.

DECISION AND ORDER

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

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 19, 2013

Date Mailed: December 20, 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;

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- 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

CAP/aca

cc:

