

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

IN THE MATTER OF:



Reg. No.: 2014-18653
Issue No(s): 2001; 2004
Case No.: [REDACTED]
Hearing Date: February 27, 2014
County: Wayne (82)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 February 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Family Independence Manager, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) application and eligibility dated January 25, 2013?

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 January 25, 2013, Claimant applied for MA benefits and indicated in the application that he was a U.S. citizen. See Exhibit 2.
2. Effective January 1, 2013, ongoing, the Medicaid Eligibility indicated that Claimant's coverage includes only alien limited to emergency medical coverage. See Exhibit 2.
3. On April 18, 2013, the Department sent Claimant a Medical Determination Verification Checklist, which requested verification of Claimant's citizenship. See Exhibit 1. The verification was due back by April 29, 2013. See Exhibit 1.

4. The Department did not receive the verification of the citizenship by the due date (April 29, 2013).
5. On May 9, 2013, the Department received a Facility Admission Notice, in which Claimant was admitted into a nursing facility as of May 7, 2013. See Exhibits 1 and 2.
6. On June 10, 2013, the Department received an e-mail from the nursing facility confirming Claimant's admission date of May 7, 2013 and also indicated an issue as to Claimant's citizenship. See Exhibit 1.
7. On June 12, 2013, the Department sent Claimant a Verification Checklist (VCL), which requested verification of Claimant's citizenship and it was due back by June 22, 2013. See Exhibit 1.
8. The Department did not receive the verification of the citizenship by the due date (June 22, 2013).
9. On or around December 5 and 6, 2013, the Department sent Claimant a Medical Determination Verification Checklist, which requested verification of Claimant's citizenship and that he must apply for Social Security benefits. See Exhibit 1. This form was due back by December 16, 2013. See Exhibit 1.
10. The Department did not receive the verification of the citizenship by the due date (December 16, 2013).
11. On December 17, 2013, Claimant filed a hearing request, protesting his MA benefits/application. See Exhibit 1.

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.

For MA cases, U.S. citizenship must be verified. BEM 225 (January 2012), p. 16.

The coverage of a person who is unable to obtain verification of alien status, or refuses to cooperate in obtaining it, is limited to emergency services until verification is

obtained. BEM 225, p. 17. A person claiming to be a U.S. citizen is not eligible for ESO coverage. BEM 225, p. 17.

Primary evidence of citizenship is documentary evidence of the highest reliability that conclusively establishes that the person is a U.S. citizen. BEM 225, p. 18. In general, the Department obtains primary evidence of citizenship before using secondary evidence. BEM 225, p. 18. The data match with the SSA is sufficient to verify citizenship and should be completed prior to requesting verification from a recipient. BEM 225, p. 18.

Also, the Department can obtain third and fourth level evidence as well. Third level evidence of U.S. citizenship is documentary evidence that is used when neither primary nor secondary evidence is available. BEM 225, pp. 20-21. Fourth level evidence should only be used in the rarest of circumstances. BEM 225, pp. 21-22.

In this case, on January 25, 2013, Claimant applied for MA benefits and indicated in the application that he was a U.S. citizen. See Exhibit 2. Claimant testified that he is a U.S. citizen and he was born in the U.S. Effective January 1, 2013, ongoing, the Medicaid Eligibility indicated that Claimant's coverage includes only alien limited to emergency medical coverage. See Exhibit 2. The Department testified that Claimant's coverage is under ESO due to its inability to verify his U.S. citizenship.

Additionally, prior to request verification from a recipient, a data match with the SSA is sufficient to verify citizenship. BEM 225, p. 18. The Department, though, presented an employee tasks/reminders document, which indicated that SSA has a different surname regarding the Claimant and to obtain new verification. See Exhibit 1. Moreover, the Department requested Claimant's U.S. citizenship verification on a few occasions as shown below.

On April 18, 2013, the Department sent Claimant a Medical Determination Verification Checklist, which requested verification of Claimant's citizenship. See Exhibit 1. The verification was due back by April 29, 2013. See Exhibit 1. The Department did not receive the verification of the citizenship by the due date (April 29, 2013). Claimant's testimony indicated that this was a temporary address. Moreover, Claimant's testimony indicated that he did not receive this verification request.

Subsequent to the verification request, on May 9, 2013, the Department received a Facility Admission Notice, in which Claimant was admitted into a nursing facility as of May 7, 2013. See Exhibits 1 and 2. On June 10, 2013, the Department received an e-mail from the nursing facility confirming Claimant's admission date of May 7, 2013 and also indicated an issue as to Claimant's citizenship. See Exhibit 1. Again, on June 12, 2013, the Department sent Claimant a VCL, which requested verification of Claimant's citizenship and it was due back by June 22, 2013. See Exhibit 1. The Department did not receive the verification of the citizenship by the due date (June 22, 2013). Claimant's testimony appeared to indicate that he possibly received it, but more than a month after the notice date.

Subsequent to the VCL (dated June 12, 2013), the Department had multiple contacts with Claimant's nursing home facility. Then, on or around December 5 and 6, 2013, the Department sent Claimant a Medical Determination Verification Checklist, which requested verification of Claimant's citizenship and that he must apply for Social Security benefits. See Exhibit 1. This form was due back by December 16, 2013. See Exhibit 1. The Department did not receive the verification of the citizenship by the due date (December 16, 2013). At this point, on December 17, 2013, Claimant filed a hearing request, protesting his MA benefits/application. See Exhibit 1. Specifically, Claimant's hearing request stated for the Department to apply the appropriate MA coverage for his nursing home. See Exhibit 1.

At the hearing, the Department testified that it is applying ESO coverage for the Claimant until citizenship is verified. The Department testified that no written notice has been generated denying and/or closing Claimant's MA benefits due to failure to provide verification of citizenship. Furthermore, both parties agreed that they spoke in August 2013 regarding the citizenship verification issue. Claimant testified that he does not have a U.S. passport, driver's license, social security card, birth certificate, etc.... Any of these forms would suffice primary and/or secondary evidence. See BEM 225, p. 18-19. Nevertheless, Claimant is unable to provide this documentary evidence as he is unable to obtain it per his testimony. It should be noted that the employee tasks notes further stated that Medicare eligibility/enrollment has been received from the Department of Community Health (DCH) and to check the social security (SOLQ) system and enter appropriate date on aged/disability benefits screens. See Exhibit 1.

When an applicant for MA or AMP claims to be a U.S. citizen, and all other eligibility factors are met, certify benefits. Once the case has been open and coverage entered in the system, verification of citizenship and identity must be completed. BAM 130 (May 2012), p. 3.

The Department attempts to verify citizenship and identity through a data match such as the Social Security Administration (SSA) or a DCH vital records match. BAM 130, p. 3. If there is a discrepancy with the information or it is not available then contact with the beneficiary is necessary. BAM 130, p. 3.

The Department allows the beneficiary 90 days to provide the required verifications. BAM 130, p. 3. If no documentation is provided at the end of the 90 days, the beneficiary should be disenrolled from MA or AMP within 30 days. BAM 130, p. 3.

Beneficiaries must be notified of the pending closure and the reason for the closure. BAM 130, p. 3. If documentation is received prior to the closure date the coverage must continue. BAM 130, p. 3.

Based on the above information, the Department attempted to verify Claimant's citizenship through SSA, however, had issues with the surname. Thus, the Department properly requested verification of his citizenship. See BAM 130, p. 3. Moreover, the Department provided Claimant with more than 90 days to provide such verification. See

BAM 130, p. 3. However, Claimant testified that he received the documentation, but not more than a month after the notice date. A review of the first verification (dated April 18, 2013) went to Claimant's alleged temporary address. See Exhibit 1. All other verifications requested went to Claimant's nursing home facility address. Thus, it appears that the Department properly sent the verifications to the proper addresses. Nevertheless, if no documentation is provided at the end of the 90 days, the beneficiary should be disenrolled from MA or AMP within 30 days. BAM 130, p. 3. Beneficiaries must be notified of the pending closure and the reason for the closure. BAM 130, p. 3. The Department testified that no closure notice has been sent.

Additionally, the Michigan Department of Community Health (MDCH) Program Eligibility Policy Section will evaluate beneficiaries who are unable to provide documentation of citizenship and identity on a case by case basis. BAM 130, p. 3.

MDCH will attempt to verify citizenship and/or identity after all other possibilities have been exhausted by DHS and the beneficiary. BAM 130, p. 4.

These attempts include but are not limited to data matches, state to state written and/or verbal inquiries, interviews with friends and relatives and the use of computerized records. BAM 130, p. 4.

If the Department is unable to verify citizenship or identity for a beneficiary, it sends a written request as listed in BAM 130 or emails DCH policy. BAM 130, p. 4. Moreover, the Department's request must include factors such as beneficiary's name, case number, description of the situation, etc...See BAM 130, p. 4.

Based on the foregoing information and evidence, the Department improperly processed Claimant's MA application in accordance with Department policy. The Department failed to follow proper procedures to verify Claimant's citizenship in accordance with Department policy.

First, as stated previously, the Department provided credible evidence to request verification of Claimant's citizenship due to SSA issues. Moreover, the Department has requested on three separate occasions that Claimant provide verification of his citizenship, without any success. A review of the verifications indicated to provide such following proof: driver's license, alien card, certificate of birth, etc... See Exhibit 1. However, policy does allow for third and fourth level evidence of U.S. citizenship as documentary evidence. See BEM 225, pp. 20-22. It is unclear if the Department attempted to obtain such documentary evidence. Thus, the Department will first attempt to obtain such third or fourth level evidence due to Claimant providing credible testimony that he is unable to provide primary or secondary evidence. The client must obtain required verification, but the Department must assist if they need and request help. See BAM 130, p. 3. It is evident that Claimant needed and requested such assistance in August 2013. See BAM 130, p. 3.

Second, the MDCH Program Eligibility Policy Section will evaluate beneficiaries who are unable to provide documentation of citizenship and identity on a case by case basis. BAM 130, p. 3. MDCH will attempt to verify citizenship and/or identity after all other possibilities have been exhausted by DHS and the beneficiary. BAM 130, p. 4. The evidence indicated that the Department has not attempted to have citizenship verified through the MDCH program eligibility. The only communication presented with the Department of Community Health was notated through the employee tasks notes, which stated Claimant's Medicare eligibility/enrollment has been received from the DCH and to check the social security (SOLQ) system and enter appropriate date on aged/disability benefits screens. See Exhibit 1. This communication only references eligibility/enrollment received and to check the SOLQ system. However, this evidence does not reference MDCH itself verifying citizenship per policy. Thus, the Department will contact MDCH to have it attempt to verify citizenship and/or identity after all other possibilities have been exhausted by DHS and the beneficiary in accordance with Department policy. BAM 130, p. 4.

DECISION AND ORDER


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 improperly processed Claimant's MA application dated January 25, 2013.

Accordingly, the Department's MA 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. Reregister the MA application dated January 25, 2013;
2. Begin reprocessing the application/recalculating the MA application, in accordance with Department policy;
3. Initiate verification of Claimant's citizenship and contact the Michigan Department of Community Health (MDCH) Program Eligibility Policy Section to attempt to verify citizenship and/or identity after all other possibilities have been exhausted by the Department and the Claimant in accordance with Department policy;
4. Issue supplements to Claimant for any MA benefits he was eligible to receive but did not from the date of application; and

5. Notify Claimant in writing of its MA decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 18, 2014

Date Mailed: March 18, 2014

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

EJF/tlf

2014-18653/EJF

cc:

