

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201429619
Issue No: 2001, 2002
Case No: [REDACTED]
Hearing Date: April 2, 2014
Jackson 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 a request for a hearing submitted by L & S Associates to the Department of Human Services (Department) on February 20, 2014. After due notice, a telephone hearing was held on April 2, 2014. [REDACTED] [REDACTED] [REDACTED] a representative with [REDACTED], appeared by three-way conference call and provided testimony on Claimant's behalf. The Department was represented by [REDACTED] [REDACTED] an assistance payments supervisor, and [REDACTED] [REDACTED] an eligibility specialist, both of whom are with the Department's Jackson County office.

ISSUE

Whether the Department properly denied Claimant's application for Medicaid and Retroactive Medicaid due to a failure to timely complete the application process?

FINDINGS OF FACT

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

1. On November 25, 2013, [REDACTED] [REDACTED] a patient advocate with [REDACTED] [REDACTED] submitted a Filing Form with the Department, seeking retroactive MA benefits for Claimant for the month of August 2013. In doing so, Ms. [REDACTED] advised the Department in writing that she will send an assistance application (DHS-1171) directly to the Department when it is completed. (Department Exhibit 1, pp. 1-6)
2. On November 26, 2013, the Department mailed Claimant and [REDACTED] [REDACTED] a Verification Checklist (DHS-3503), requesting that Claimant provide the Department with verification of the following assets: current bank statements; vehicle titles; records of assets sold or transferred in the last 60 months; proof of current status of pending lawsuits; statement from nursing home of money held for Claimant; copy of original trust papers; proof of current value and availability of stocks, bonds, notes, savings certificates, annuities, IRA or 401K accounts; records of all

mortgages or land contracts held by Claimant; life insurance proof of ownership, face value, and current cash surrender value; burial accounts or contracts. The Department further advised Claimant that it required a completed 1171 application as well as a retroactive MA application. This information was due to the Department by December 6, 2013. (Department Exhibit 2, pp. 7-9)

3. On December 6, 2013, [REDACTED] submitted correspondence to the Department indicating that [REDACTED] was attempting to obtain the required verifications and required a 10-day extension of the December 6, 2013 deadline by which to submit the required verifications and complete the application process. (Department Exhibit 3, pp. 10-14)
4. Because [REDACTED] failed to complete the application process and submit the required verifications by the December 6, 2013 deadline, the Department was unable to determine Claimant's eligibility for MA and denied the application request effective December 11, 2013. (Department Exhibit 4, pp. 15-17)
5. On February 20, 2014, [REDACTED] submitted a hearing request protesting the denial of Claimant's November 25, 2013 Filing Form for retroactive MA. (Department Exhibit 5)

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).

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the BAM, the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states that clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Clients must take actions within their ability to obtain verifications and the department must assist clients when necessary. BAM 105.

The application form for MA benefits must be signed by the client or the individual acting as his authorized representative. BAM 110, p. 8. When an assistance application is received in the local office without the applicant's signature or without a signed

document authorizing someone to act on the applicant's behalf, the department must do the following: (i) register the application as a request if it contains a signature; (ii) send a DHS-330, Notice of Missing Information, to the individual explaining the need for a valid signature; (iii) allow 10 days for a response (the department cannot deny an application due to incompleteness until 10 calendar days from the date of the initial request in writing to the applicant to complete the application form or supply missing information, or the initial scheduled interview); (iv) record the date the application or filing form with the minimum information is received. BAM 110, pp. 8-9; see also BAM 115, pp. 4-5. An application received from an agency is acceptable if it is signed by an individual and is accompanied by written documentation from the client authorizing the agency to act as their authorized representative. BAM 110, p. 9.

In this case, on November 25, 2013, [REDACTED] submitted a Filing Form (DHS-1171-F) with the Department, seeking retroactive MA benefits on behalf of Claimant. On November 26, 2013, the Department mailed [REDACTED] and Claimant a Verification Checklist, informing [REDACTED] in relevant part that the Department required a completed assistance application (DHS-1171) and retroactive MA application and various asset verifications by December 6, 2013 or the application would be denied. And, because [REDACTED] failed to submit a completed application on Claimant's behalf or the required asset verifications by the December 6, 2013 deadline, on December 11, 2013, the Department mailed [REDACTED] and Claimant a Benefit Notice (DHS-176), advising that Claimant was not eligible for Medicaid because she failed to complete the application process and failed to provide required verifications of Claimant's assets by the due date.

At the April 3, 2014 hearing in this matter, the Department's representative, Nicole Huffs, testified that, because [REDACTED] had submitted an incomplete application on behalf of Claimant, Claimant was not entitled to any extensions of required verifications and the Department was authorized by BAM 110 and BAM 115 to deny an incomplete application 10 calendar days from the date of the Department's initial request in writing to the applicant to complete the application form or supply missing information.

In response to the Department's testimony, [REDACTED], a representative with [REDACTED], testified that, rather than deny Claimant's Filing Form for failure to complete the application process, the Department should have instead relied upon and accepted a previous MA application submitted by Claimant on September 16, 2013 and denied by the Department on October 10, 2013. In support of his argument, Mr. Hayman cited BAM 115, which provides in relevant part:

The following applies when an application is denied **or** eligibility is terminated before the month of a scheduled redetermination or end date:

The application on file remains valid through the last day of the month **after** the month of the denial or termination. To reapply during this time, the client/AR must do all of the following:

- Update the information on the existing application.
- Initial and date each page next to the page number to show that it was reviewed.
- Re-sign and re-date the application on the signature page.
- If eligibility exists, the updated application is valid until the originally scheduled redetermination or end date.

However, despite ██████████ reliance on the above-cited provisions of BAM 115, Mr. Hayman failed to provide any testimony or documentary evidence establishing that L & S Associates updated the information on Claimant's September 16, 2013 application, initialed and dated each page of that application, and re-signed and re-dated the application on the signature page – all of which is required by BAM 115 in order for the previously denied application to remain valid. Moreover, if indeed ██████████ wished to have the Department rely upon a previously submitted and denied MA application that ██████████ had yet to update, Mr. ██████████ could offer no explanation for the inconsistent representation in ██████████' written submittal of the Filing Form on Claimant's behalf on November 25, 2013, at which time L & S Associates advised the Department in writing that they would send an assistance application (DHS-1171) directly to the Department when it was completed – which, in the end, L & S Associates never did.

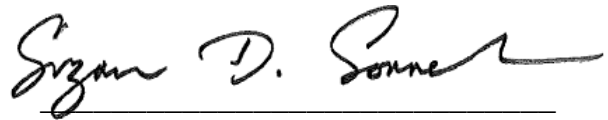
Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally 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, based on the competent, material, and substantial evidence presented during the April 2, 2014 hearing, that the Department properly determined on December 11, 2013 that Claimant was not eligible for Medicaid benefits due to a failure to timely complete the application process.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly determined on December 11, 2013 that Claimant was not eligible for Medicaid benefits due to a failure to timely complete the application process. Accordingly, the Department's decision in this regard is therefore **UPHELD**.

It is **SO ORDERED**.



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

Date Signed: April 4, 2014

Date Mailed: April 7, 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

SDS/hj

cc:

