

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-010958
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: October 8, 2014
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on October 8, 2014, from Madison Heights, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's Medical Assistance (MA) application due to Claimant's failure to verify assets.

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 [REDACTED], Claimant applied for MA benefits, including retroactive MA benefits from 12/2013.
2. Claimant was a partial owner of a co-op.
3. On [REDACTED] DHS mailed Claimant and his authorized representative (AR) a Verification Checklist (VCL) requesting the value of his co-op share.
4. The VCL due date was [REDACTED]
5. DHS extended the due date three times following AR requests.

6. On an unspecified date, on or before [REDACTED], Claimant submitted a letter (Exhibits A1-A3) to DHS.
7. On [REDACTED], DHS denied Claimant's MA application and mailed a Health Coverage Determination Notice (Exhibits 3-5).
8. On [REDACTED], Claimant requested a hearing to dispute the denial of MA benefits.

CONCLUSIONS OF LAW

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Two procedural issues must be addressed before a substantive analysis. Claimant's hearing request was drafted by an authorized hearing representative (AHR). Before the hearing, the AHR withdrew their representation.

Claimant began the hearing by requesting an adjournment. Claimant stated that he wanted additional time for the purpose of obtaining attorney representation. Claimant was asked why he required an attorney to represent him in the hearing. Claimant responded that he was not a legal scholar. Many clients are not legal scholars but are capable of representing themselves in administrative hearings. Claimant also responded that he wanted time to talk to his building manager in order to obtain information concerning a co-op valuation. Claimant's adjournment request was tentatively denied. The request would be reconsidered after more information was furnished.

Claimant requested a hearing to dispute a denial of MA benefits. It was not disputed that Claimant was only potentially eligible for MA benefits as a disabled individual. MA eligibility based on disability is considered an SSI-related MA category.

All types of assets are considered for SSI-related MA categories. BEM 400 (2/2014), p. 2. "All types of assets" includes real property (see *Id.*, p. 1). It was not disputed that DHS denied Claimant's MA application based on Claimant's failure to verify the value of a co-op partially owned by Claimant. Claimant testified that his co-op ownership was

limited to one residence of a building of many residences. Claimant also testified that he had difficulty obtaining documentary proof of his ownership value.

For all programs, DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (7/2013), p. 3. DHS must give clients at least ten days to submit verifications. *Id.*, p. 6. DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3.

For MA benefits, if the client cannot provide the verification despite a reasonable effort, DHS is to extend the time limit up to three times. *Id.*, p. 6. DHS is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. *Id.*, p. 7.

In the present case, DHS gave Claimant three extensions to verify the value of his co-op. It was not disputed that the only document submitted on behalf of Claimant concerning the value of Claimant's co-op was a letter drafted by Claimant (Exhibits A1-A3).

Claimant's letter provided details about the following: previous employment, a slip and fall incident, medical history, and child custody information. The letter also stated that Claimant owned two properties, one of which was rented through the end of 5/2014. Claimant's letter also explained his financial difficulties which included an inability to afford monthly co-op dues. Notably absent from the letter was a statement of the value of Claimant's co-op.

Claimant testified that he had difficulty obtaining a co-op valuation because he does not receive a state equalized value. Claimant's inability to verify the value of his co-op is potentially excusable.

If neither the client nor DHS can obtain verification despite a reasonable effort, DHS is to use the best available information. BAM 130 (4/2014), p. 3. If no evidence is available, DHS is to use best judgment. *Id.*

The problem with Claimant's excuse is that neither he nor his AHR appeared to report the difficulties in obtaining verification of the co-op's value. Claimant's letter, though detailing many subjects, did not reference the co-op's value or the difficulties in obtaining value. Had Claimant reported to DHS the difficulties in obtaining his co-op's value before DHS denied his application, Claimant's excuses would have been more sympathetic.

It should be noted that Claimant testified that he is attempting to sell his co-op for \$55,000 and that he owes \$9,400 on the property. Claimant further testified that he received an offer of \$20,000 for the co-op but that a co-op board rejected the sale. Accepting Claimant's testimony as accurate would make the value of the co-op far more than the \$2,000 asset limit (see BEM 400). For good measure, Claimant also testified

that he began working in 9/2014 for 35 hours per week at minimum wage. Claimant's wages appear to place him above presumptive substantial gainful activity income limits for disability. Thus, even if Claimant's letter was somehow accepted as an appropriate verification, two other bases to deny Claimant's MA application exist. Based on the presented evidence, it is found that DHS properly denied Claimant's MA benefit application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's MA application dated [REDACTED] included retroactive MA benefits from 12/2013. The actions taken by DHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/30/2014**

Date Mailed: **10/30/2014**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

