

**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.: 14-003853
Issue No.: 2002
Case No.: ██████████
Hearing Date: August 28, 2014
County: DHS SSPC-EAST

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 three-way telephone hearing was held on August 28, 2014 from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's step-mother/Authorized Hearing Representative (AHR), ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Assistant Payment Supervisor.

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) application effective April 1, 2014, based on a failure to comply with the verification requirements?

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 April 1, 2014, Claimant applied for MA benefits and indicated in the application that he received other income two times per month in the amount of \$100.00.
2. On April 2, 2014, the Department sent Claimant a Verification Checklist (VCL), which requested verification of his income and it was due back by April 14, 2014. See Exhibit 1, pp. 6-7.
3. On April 11, 2014, Claimant contacted the Department. Claimant and the AHR also alleged multiple contacts to the Department in May and June 2014 without any response.

4. The Department did not receive verification of Claimant's income.
5. On May 7, 2014, the Department sent Claimant a Health Care Coverage Determination Notice notifying him that his MA application was denied effective April 1, 2014, ongoing, due to his failure to submit verification of income. See Exhibit 1, pp. 8-10.
6. On May 30, 2014, Claimant and the AHR filed a hearing request, protesting the MA denial. See Exhibit 1, pp. 11-13.

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 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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2014), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130 (April 2014), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department extends the time limit up to three times. BAM 130, p. 7. The Department send a case 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, on April 1, 2014, Claimant applied for MA benefits and indicated in the application that he received other income two times per month in the amount of \$100.00. On April 2, 2014, the Department sent Claimant a VCL, which requested verification of his income and it was due back by April 14, 2014. See Exhibit 1, pp. 6-7.

At the hearing, the AHR testified that they did not receive the VCL dated April 2, 2014. The AHR acknowledged that the address on the VCL was proper. Moreover, the AHR testified that they did not have issues with mail. The Department testified that the VCL was sent via central print and that it did not receive any undeliverable mail from the United States Postal Service (USPS). It should be noted that the AHR testified that she

eventually received the VCL; however, that occurred when the hearing packet was mailed.

Additionally, Claimant testified that they contacted the DHS caseworker (whose name was mentioned throughout the hearing) in April and May 2014 without any contact back. Claimant testified that he was contacting the Department to get more information/status on the application and if he had to do anything further. Towards the conclusion of the hearing, the Department did verify that Claimant contacted the Department on April 11, 2014, which was before the VCL due date. The AHR testified that it contacted and spoke to the Department upon receipt of the denial letter dated May 7, 2014. It appears that the AHR spoke with the Department on June 9, 2014 (pre-hearing conference). See Exhibit 1, p. 3. A documentation record was presented indicating that the AHR did not receive the request for bank statement documentation. See Exhibit 1, p. 3. The AHR testified that she mailed a bank document to the Department showing that Claimant did not have income.

Finally, the Department testified that it did not receive verification of Claimant's income. Moreover, on May 7, 2014, the Department sent Claimant a Health Care Coverage Determination Notice notifying him that his MA application was denied effective April 1, 2014, ongoing, due to his failure to submit verification of income. See Exhibit 1, pp. 8-10.

The client must obtain required verification, but the Department must assist if they need and request help. BAM 130, p. 3. If neither the client nor the Department can obtain verification despite a reasonable effort, it uses the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3 and see also BAM 105, p. 10.

Based on the foregoing information and evidence, the Department improperly denied Claimant's MA application effective April 1, 2014.

First, it is found that Claimant failed to rebut the presumption of proper mailing. The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The evidence indicated that the Department mailed the VCL to the proper address. Moreover, neither Claimant nor the AHR indicated any issues in receiving DHS correspondence.

Nevertheless, Claimant and the AHR credibly testified that Claimant contacted the Department seeking assistance multiple times without any response from the Department. Moreover, the Department acknowledged that Claimant contacted the Department on April 11, 2014, which was before the VCL due date. As such, this supports Claimant's argument that he attempted to contact the Department and/or sought assistance with the MA application. The client must obtain required verification, but the Department must assist if they need and request help. BAM 130, p. 3. Because

the Claimant contacted the Department on multiple occasions and the Department failed to assist the Claimant, it improperly denied the MA application effective April 1, 2014, in accordance with Department policy. BAM 105, p. 10 and BAM 130, p. 3.


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 denied Claimant's MA application effective April 1, 2014.

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 April 1, 2014;
2. Begin reprocessing the application/recalculating the MA budget for April 1, 2014, in accordance with Department policy;
3. Issue supplements to Claimant for any MA benefits he was eligible to receive but did not from April 1, 2014; and
4. 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: **9/2/2014**

Date Mailed: **9/2/2014**

EJF / cl

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