

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-016448
Issue No.: 2004
Case No.: [REDACTED]
Hearing Date: February 19, 2015
County: Wayne (35)

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, a telephone hearing was held on February 19, 2015, from Detroit, Michigan. Kayla Ayers of Advomas testified and appeared as Claimant's Authorized Hearing Representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Hearings Facilitator.

ISSUE

The issue is whether DHS properly denied Claimant's Medical Assistance (MA) application.

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 (see Exhibits 31-35), including retroactive MA benefits from 7/2013 (see Exhibit 17).
2. Claimant's application listed an authorized representative (AR).
3. Claimant's application reported to DHS that she has a bank account and that she and her children each receive RSDI income.
4. On [REDACTED] DHS mailed a Verification Checklist (VCL) to Claimant's AR requesting documentary proof of Claimant's income and bank account balance; the VCL due date was [REDACTED].

5. Claimant's AR timely returned verification of Claimant's bank account.
6. On [REDACTED], Claimant's AR requested an extension of the due date.
7. On [REDACTED], DHS approved the request and mailed a second VCL (Exhibits 43-44) to Claimant's AR listing a new due date of [REDACTED].
8. On [REDACTED], Claimant's AHR requested a second due date extension, which DHS denied.
9. On [REDACTED], DHS mailed Claimant's AR a Notice of Case Action (Exhibits 45-50) denying Claimant's MA eligibility from 8/2013 due to a failure by Claimant or her AR to verify RSDI income.
10. On [REDACTED], Claimant's AR requested a hearing to dispute the failure by DHS to process Claimant's eligibility from 7/2013.

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).

A procedural issue should be noted. Claimant's AHR requested a hearing to only dispute Claimant's 7/2013 MA eligibility. Claimant's AHR's hearing request was submitted approximately 11 months after DHS issued a Notice of Case Action (Exhibits 45-50). Claimants and representatives have 90 calendar days from the date of written notice to request a hearing (see BAM 600). The Notice of Case Action only denied Claimant's MA eligibility from 8/2013. DHS did not verify the mailing of a written notice denying Claimant's MA eligibility from 7/2013. Without a written notice of denial, the 90 day timeframe to request a hearing is inapplicable. Thus, Claimant's AHR's hearing request was timely.

The analysis could conclude by ordering DHS to process Claimant's application for 7/2013 MA eligibility. Presumably, DHS would respond by denying Claimant's 7/2013 eligibility for the same reason that 8/2013 MA eligibility was denied. In the interest of

efficiency, the analysis will proceed to determine if DHS properly denied Claimant's MA eligibility.

DHS denied Claimant's MA eligibility from 8/2013 due to a Claimant failure to timely submit income verification. DHS policy explains the procedural requirements for requesting verifications.

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.

It was not disputed that DHS mailed a VCL to Claimant's AR (also Claimant's AHR) on 11/20/13. It was also not disputed that Claimant's AR requested an extension on the time to return income verification, which DHS granted. Claimant's AHR requested a second extension, via email, which was denied by DHS.

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.

The DHS email denying Claimant's second extension request (Exhibits A1-A2) indicated that it was within DHS discretion to deny Claimant's AHR's extension request. Language of "is to extend" is not indicative of discretion. Claimant's AR/AHR testified that reasonable efforts were made in complying with the DHS due date; DHS did not dispute Claimant's AHR's testimony.

DHS provided no valid reason for denying the second extension request. A plausible reason for the denial was DHS interest in meeting their 45 day standard of promptness for processing MA applications (see BAM 115). A second verification deadline extension may have put DHS outside of their 45 timeframe.

DHS policy cautions specialists about denying applications based on standards of promptness. Exceeding the SOP cannot be the sole reason for a denial. BAM 115 (7/2013), p. 32. Based on the presented evidence, it is found that DHS erred by denying Claimant's second request to extend the VCL due date.

Typically, the remedy for an improper denial of a verification due date is to order DHS to mail Claimant a VCL. As it happened, Claimant's AR submitted income verifications to DHS in 2/2014. Thus, DHS has no need to request further verifications from Claimant. The below order reflects that DHS currently possesses Claimant's requested verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA benefits. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's MA application requesting MA benefits from 7/2013;
- (2) initiate processing of Claimant's 7/2013 MA eligibility based on previously returned income and asset verifications.

The actions taken by DHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/24/2015**

Date Mailed: **2/24/2015**

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 48909-8139

CC:

A large black rectangular redaction covers the names and email addresses listed in the CC field.