

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-22660
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: March 12, 2014
County: Wayne (19)

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 March 12, 2014, from Inkster, Michigan. Participants included the above-named Claimant. [REDACTED] testified and appeared, via telephone, as Claimant's authorized hearing representative. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Supervisor, via telephone, and [REDACTED], Manager.

ISSUE

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

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 8/2012.
2. Claimant's application listed an authorized hearing representative (AR).
3. On [REDACTED], DHS mailed Claimant a Verification Checklist requesting proof of Claimant's income and checking account information.

4. Claimant did not have a checking account but had an account to receive direct deposits from a temp service employer.
5. The VCL due date was [REDACTED].
6. Following multiple requests for extension, DHS extended the due date through mid-12/2012.
7. On [REDACTED], Claimant's AR submitted proof of Claimant's income (Exhibits 16-20), activity on Claimant's direct deposit account (Exhibits 9-11) and a request for DHS to use the best available information.
8. On [REDACTED], DHS denied Claimant's MA benefit application and mailed a Notice of Case Action (Exhibits 1-2) to Claimant.
9. On [REDACTED], DHS mailed a Notice of Case Action (Exhibits 3-5) to Claimant's AR.
10. On [REDACTED], Claimant's AR/AHR requested a hearing to dispute the denial of Claimant's MA application.

CONCLUSIONS OF LAW

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. 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).

Prior to a substantive analysis of the hearing request, it should be noted that the request noted special arrangements in order for Claimant to participate and/or attend the hearing; specifically, an in-person hearing was requested. The request was granted and the hearing was conducted accordingly.

The DHS Hearing Summary implied that Claimant's AHR failed to timely request a hearing. It was not disputed that Claimant's AHR submitted a hearing request 6 months after DHS notified Claimant of an application denial. The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (7/2013), p. 5. This policy does not factor the DHS obligation to mail notice to an AR.

An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (for example, to obtain FAP benefits for the group). BAM 110 (7/2010), p. 7. The AR assumes all the responsibilities of a client.

Id., p. 8. Based on DHS regulations, Claimant's AR is entitled to receive notice of any application decisions.

It was not disputed that Claimant's application listed an AR. DHS mailed Claimant notice of an application denial on [REDACTED], but did not mail notice to Claimant's AR until 3/29/13. The date of [REDACTED] is the begin date of the 90 days that Claimant's AR/AHR had to request a hearing. Based on a [REDACTED] notice date, Claimant's AHR's hearing request submission date of [REDACTED] is timely. Accordingly, a substantive analysis of Claimant's AHR's dispute may proceed.

Claimant's AHR requested a hearing to dispute a denial of MA benefits. It was not disputed that the reason for denial was Claimant's failure to verify income and assets.

For all programs, DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5/2012), pp. 2-3. DHS must give clients at least ten days to submit verifications. *Id.*, p. 3 DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 2. 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. 2. DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification, or
- the time period given has elapsed.

Id., p. 6.

During the hearing, Claimant's AR/AHR presented a Verifications of Employment (Exhibits 12-16) and check stubs (Exhibits 17-20). DHS presented a submission letter (Exhibit 8) and fax confirmation (Exhibit 7) acknowledging receipt of Claimant's income documents. It is found that DHS improperly denied Claimant's application based on a failure by Claimant to verify income. DHS also contended that Claimant failed to submit proof of assets- specifically, an account set-up for Claimant to receive direct deposits from a temp service employer.

Assets must be considered in determining eligibility for FIP, SDA, RCA, LIF, G2U, G2C, SSI-related MA categories, AMP and FAP. BEM 400 (7/2013), p. 1 DHS is to verify the value of countable assets at application, redetermination and when a change is reported. *Id.*, p. 55.

It was not disputed that DHS failed to receive proof of Claimant's direct deposit account balance. Claimant's AHR alleged that DHS should have used the best available information in lieu of verification.

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

Claimant's AHR contended that the account balance was extremely difficult to verify. A national bank checking or savings account balance is expected to be relatively easy to

verify through the internet or local branch. A direct deposit account associated with a small employer seems less easy to verify. Thus, Claimant's AHR's testimony concerning difficulties in verifying the account information seems credible.

It was not disputed that Claimant's AHR submitted account activity (Exhibits 9-11) from [REDACTED]. The account activity only verified dates and locations of card use, not the account balance. The evidence is supportive in showing efforts by Claimant's AHR to verify the account balance.

Consideration was also given to the probability that Claimant uses the direct deposit account to shield assets. Based on Claimant's modest income (Claimant's verified wage payments ranged from \$186.44 to \$295.24) and purchase history (Claimant's card was used at least 14 times each in 8/2012 and 9/2012), it is improbable that Claimant is purposely not disclosing the account balance.

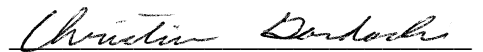
Based on the presented evidence, it is found that Claimant and/or Claimant's AHR used reasonable efforts to obtain verification of Claimant's direct deposit account balance. Accordingly, DHS is to use the best available information to determine the balance of Claimant's direct deposit account. DHS is given discretion to determine "best available". One reasonable option would be to use Claimant's verbal statements.

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 application dated [REDACTED];
- (2) initiate processing of Claimant's MA eligibility subject to the finding that DHS is to determine Claimant's asset eligibility based on the best available information of account balance for the direct deposit account.

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


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

Date Signed: 4/2/2014

Date Mailed: 4/2/2014

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

CG/hw

cc:

