

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201429674
Issue No: 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 21, 2014. After due notice, a telephone hearing was held on April 2, 2014. [REDACTED] a representative with L & S Associates, 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] an eligibility specialist, both of whom are with the department's Jackson County office.

ISSUE

Whether the Department properly denied Claimant's October 15, 2013 application for Medical Assistance (MA) and retroactive MA due to a failure to verify necessary information?

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 October 15, 2013, [REDACTED], submitted an assistance application (DHS-1171) on Claimant's behalf, seeking medical assistance and retroactive MA benefits. (Department Exhibit 1, pp. 1-27)
2. Based on a verification from Claimant on file with the Department in July 2013 indicating a 401K balance of \$ [REDACTED] with Pr [REDACTED] [REDACTED] under the plan name WESCO, INC., on October 18, 2013, October 31, 2013, November 12, 2013, and November 25, 2013, the Department submitted to L&S Associates Verification Checklists (DHS 3503) requesting, among other things, that Claimant provide verification of the WESCO, INC 401K account for the months of September and

October 2013. With the Department's third and final extension of the deadline for submittal of this verification, the information was ultimately due to the Department by December 5, 2013. (Department Exhibit 2, pp. 28-42)

3. On December 5, 2013, ██████████ requested a fourth extension of the verification deadline, indicating as follows in relevant part:

Please note our office spoke with Ms. ██████████ on 12/5/13; she stated that her 401K was through WESCO, her past employer. When she quit her job in May 2013, she believes she gave her last 401K statement to your office. Our office is also going to try and contact WESCO and order Ms. Cunningham's 401K information from them. (Department Exhibit 3, p. 43)

4. On December 6, 2013, the Department mailed Claimant and ██████████ a Notice of Case Action (DHS 1605), informing Claimant that her application for MA and retroactive MA benefits had been denied because she failed to return an updated 401K statement since the previous statement was through April 15, 2013. (Department Exhibit 4, pp. 44-51)
5. On February 21, 2014, ██████████ submitted a hearing request on Claimant's behalf, protesting the department's denial of her application for MA benefits. Along with the hearing request, L & S Associates submitted a letter dated December 9, 2013 from Principal Financial Group to ██████████ indicating that Claimant no longer had a 401K account with ██████████. (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 indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. BAM 105. This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Clients must take actions within their ability to obtain verifications. BAM 130; BEM 702. Likewise, DHS local office staff must assist clients who ask for help in completing forms. BAM 130; BEM 702; BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. If the client is unable to provide the verification despite a reasonable effort, the department must extend the time limit at least once. BAM 130. . For MA, if the client cannot provide the verification despite a reasonable effort, the time limit is extended up to three times. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

In this case, on October 15, 2013, Claimant's authorized representative (AR) submitted an application for Medicaid and Retroactive Medicaid Claimant's behalf. Thereafter, from October 28, 2013 through November 25, 2013, Claimant's AR sought and was granted three extensions on the due dates for submitting the verification information requested by the Department regarding Claimant's 401K account. And, because Claimant's AR failed to submit the required verification of Claimant's 401K account by the final deadline of December 5, 2013, the Department denied Claimant's application on December 6, 2013.

At the April 3, 2014 hearing, the Department's representative, [REDACTED] testified that because Claimant had previously provided the Department with verification of the existence of a 401K account with a balance of \$ [REDACTED] with Principal Financial Group under the plan name WESCO, INC., the Department simply required verification of that balance or lack thereof.

In response, Claimant's AR, [REDACTED], testified that [REDACTED] was unaware of Claimant's prior 401K account until the Department advised [REDACTED] of its existence on December 4, 2013. Mr. Hayman further testified that the Department should have accepted [REDACTED] untimely submittal of the 401K verification from [REDACTED], received by [REDACTED] on December 9, 2013.

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*

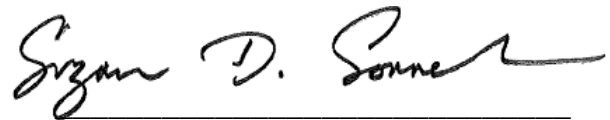
Community Health v Risch, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented during the April 2, 2014 hearing, because Claimant's AR did not indicate an unfamiliarity with the department's verification process or otherwise demonstrate a failure to understand that which was required of Claimant, after having been granted three extensions to obtain such information, the Department acted in accordance with policy in denying Claimant's application for Medicaid and Retroactive Medicaid due to a failure to timely verify necessary information regarding Claimant's 401K account.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in denying Claimant's application for Medicaid and Retroactive Medicaid due to a failure to timely verify necessary information regarding Claimant's 401K account. The Department's actions in this regard are 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:

