

**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.: 2014-29731
Issue No(s): 2002
Case No.: ██████████
Hearing Date: April 9, 2014
County: Wayne (82-15)

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 April 9, 2014, from Detroit, Michigan. Participants on behalf of Claimant included ██████████ ██████████ ██████████
██ Participants on behalf of the Department of Human Services (Department or DHS) included ██████████
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ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) application due to 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 October 22, 2013, Claimant and/or the authorized representative (AR) (who is also the AHR) applied for MA benefits. See Exhibit 1.
2. On October 22, 2013, the application listed the following information: Claimant's daughter's name; Claimant's monthly Retirement, Survivors, and Disability Insurance (RSDI) income in the amount of \$828; and Claimant's asset (income debit card/Direct Express). See Exhibit 2.

3. On October 28, 2013, the Department sent Claimant and the AHR a Verification Checklist (VCL), which requested verification of Claimant's checking account which was due back by November 7, 2013. See Exhibit 1.
4. On November 6, 2013, Claimant's AHR submitted medical records and also stated it is attempting to obtain verification of the income debit card and requested an extension (1st extension) request until November 17, 2013. See Exhibit A. The extension request was granted by the Department.
5. On November 14, 2013, Claimant's AHR sent the Department correspondence in which it stated they are awaiting the statements from the income debit card and requested a second extension until November 27, 2013. See Exhibit A. The extension request was granted by the Department.
6. On November 25, 2013, Claimant's AHR submitted verification of the income debit card statement for the month of October 2013 (application month). See Exhibits 1 and A.
7. On November 25, 2013, Claimant's AHR's correspondence also stated that it believed the checklist is complete and to use the best available information to make a determination. See Exhibits 1 and A.
8. The submitted Direct Express bank statement did not list Claimant's name; however, it stated the daughter's name "for the benefit recipients of the account." See Exhibits 1 and A.
9. The Department determined that Claimant's AHR failed to comply with the verification requirements because the asset did not list Claimant's name.
10. On December 9, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA application was denied effective October 1, 2013, ongoing, due to the failure to provide verification of the bank checking account. See Exhibit A.
11. On February 20, 2014, Claimant's AHR filed a hearing request protesting the MA denial. See Exhibit 1.

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 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.

The value of the types of assets described in BEM 400 is the amount of the money in a vendor pre-paid debit card (for example, Direct Express, ReliaCard, etc.). BEM 400 (December 2013), p. 16. Verification sources for vendor pre-paid debit cards include a statement from the vendor or online printout which reflects the current account balance (for example, Direct Express, ReliaCard, etc.). BEM 400, p. 62. It should be noted that for MA, an ATM slip is not acceptable verification. See BEM 400, p. 62.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2013), 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 (July 2013), p. 6. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit up to three times. BAM 130, p. 6. The Department sends a case action notice when: the client indicates refusal to provide a verification or the time period given has elapsed. BAM 130, p. 7. Only adequate notice is required for an application denial. BAM 130, p. 7.

In this case, on October 22, 2013, Claimant and/or the AR (who is also the AHR) applied for MA benefits. See Exhibit 1. On October 22, 2013, the application listed the following information: Claimant's daughter's name; Claimant's monthly RSDI income in the amount of \$828; and Claimant's asset (income debit card/Direct Express). See Exhibit 2.

On October 28, 2013, the Department sent Claimant and the AHR a VCL which requested verification of Claimant's checking account and it was due back by November 7, 2013. See Exhibit 1. On November 6, 2013, Claimant's AHR submitted medical records and also stated it is attempting to obtain verification of the income debit card and requested an extension (1st extension) request until November 17, 2013. See Exhibit A. The extension request was granted by the Department.

On November 14, 2013, Claimant's AHR sent the Department correspondence in which it stated they are awaiting the statements from the daughter regarding the income debit card and requested a second extension until November 27, 2013. See Exhibit A. The extension request was granted by the Department.

On November 25, 2013, Claimant's AHR submitted verification of the income debit card statement for the month of October 2013 (application month). See Exhibits 1 and A. On November 25, 2013, Claimant's AHR's correspondence also stated that it believed the checklist is complete and to use the best available information to make a determination. See Exhibits 1 and A. The submitted Direct Express bank statement did

not list Claimant's name; however, it stated the daughter's name "for the benefit recipients of the account." See Exhibits 1 and A.

At the hearing, the Department's representative testified that she was not the caseworker who handled the case in question. Still, the Department testified that the verification was not proper because the statement did not list Claimant's name. See Exhibits 1 and A. Moreover, the Department testified that the caseworker attempted to call the AHR to inquire on this discrepancy. Thus, on December 9, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA application was denied effective October 1, 2013, ongoing, due to the failure to provide verification of the bank checking account. See Exhibit A.

Claimant's AHR provided three arguments during the hearing as to why the MA denial was improper.

First, Claimant's AHR indicated that the VCL and the Notice of Case Action referred to the asset as a checking account. See Exhibits 1 and A. However, the AHR testified this was not a checking account and it was an income debit card/Direct Express. Moreover, the application listed Claimant's asset as an income debit card/Direct Express. See Exhibit 2. The AHR inferred that the VCL and Notice of Case Action improperly referenced the type of asset listed.

Second, the AHR testified that, even though Claimant's name was not listed, it still met the verification requirement. The AHR testified that the statement listed the daughter's name, who was also listed in the application. Thus, the AHR inferred that the Department could have verified her name based on the application. Also, the AHR testified the statement had a deposit from the Social Security Administration (SSA) in the amount of \$828. See Exhibit A. The AHR testified this is Claimant's RSDI income and the application listed this same amount as well. Therefore, the AHR believed that, based on the above information, the statement sufficed the verification requirements. It should be noted that, based on the statement, it appeared that Claimant's daughter was the representative payee for Claimant's RSDI income.

Third, the AHR contended that, if there was an issue as to the verification, the Department should have given the AHR a third extension to resolve the discrepancy.

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, the Department uses the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3.

Before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 7.

Based on the foregoing information and evidence, the Department improperly denied Claimant's MA application effective October 1, 2013, retroactive to July 2013 (if applicable).

First, there is a discrepancy as to the asset verification because Claimant's name did not appear on the submitted documentation. As such, before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 7. Thus, the Department should have provided the AHR with an opportunity to resolve the asset discrepancy. See BAM 130, p. 7.

Second, at the minimum, the Department could have used the best available information to make an MA eligibility determination. See BAM 130, p. 3. On November 25, 2013, Claimant's AHR's correspondence stated that it believed the checklist is complete and to use the best available information to make a determination. See Exhibits 1 and A. Thus, the Department could have used the best available information (statement provided) to make an MA eligibility determination. BAM 130, p. 3.

Third, the evidence presented that the AHR complied with the verification requirements. It is reasonable to conclude that the vendor pre-paid debit card belonged to Claimant and that the daughter was just a representative payee. The submitted Direct Express bank statement did not list Claimant's name; however, it stated the daughter's name "for the benefit recipients of the account." See Exhibits 1 and A. The name which appeared on the statement was the daughter's and this was verified via the MA application. See Exhibit 2. Moreover, the statement indicated an SSA direct deposit in the amount of \$828. See Exhibit 2. This amount was also verified via the application, which stated Claimant receives \$828 in RSDI income. See Exhibit 2. Based on above information, it is reasonable to conclude that the asset (vendor pre-paid debit card) belonged to Claimant and, therefore, the AHR provided acceptable verification. BAM 105, p. 6; BAM 130, pp. 3, 6 and 7; and BEM 400, pp. 16 and 62.

Nevertheless, the Department will reregister the MA application dated October 22, 2013, for the reasons stated above and in accordance with Department policy. BAM 105, p. 6; BAM 130, pp. 3, 6 and 7; and BEM 400, pp. 16 and 62.

DECISION AND ORDER

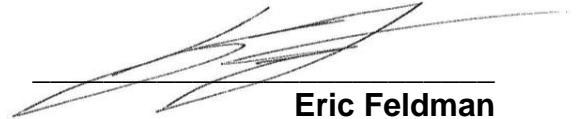
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it improperly denied Claimant's MA application effective October 1, 2013 and retroactive to July 2013 (if applicable).

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. Initiate re-registration and reprocessing of Claimant's MA application dated October 22, 2013, retroactive to July 2013 (if applicable), ongoing;
2. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive but did not in accordance with Department policy; and
3. Begin notifying Claimant and Claimant's AHR 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: April 10, 2014

Date Mailed: April 14, 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

EJF/pf

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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