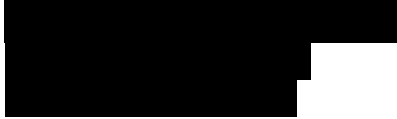


**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES**

**IN THE MATTER OF:**



New Reg. No.: 2014-36141  
Old Reg No. 2014-30768  
Issue No(s): 2002  
Case No.: [REDACTED]  
Hearing Date: April 23, 2014  
County: Ingham

**SUPERVISING ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**DECISION AND ORDER OF RECONSIDERATION**

This matter is before the undersigned Supervising Administrative Law Judge pursuant to a timely Request for Rehearing/Reconsideration of the Hearing Decision generated by the assigned Administrative Law Judge (ALJ) at the conclusion of the hearing conducted on April 23, 2014 and mailed to Claimant on May 16, 2014 in the above-captioned matter.

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 400.919, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program or programs at issue, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

This matter having been reviewed, an Order Granting Reconsideration was generated on September 11, 2014.

**ISSUE**

Did the Administrative Law Judge (ALJ) err when he upheld the Department's denial of Claimant's application for Retroactive Medical Assistance (MA) benefits based on the failure to provide requested verifications?

**FINDINGS OF FACT**

Upon a review of the entire hearing record, including the recorded testimony and evidence admitted, in addition to a review of the applicable law and policy governing the issues in this matter, this Administrative Law Judge incorporates the findings of fact of the Administrative Law Judge who conducted the hearing on April 23, 2014.

## CONCLUSIONS OF LAW

Department policies are found 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 who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105 (4-1-2014), p. 7. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (4-1-2014), p. 1. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130, p. 1.

The Department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department sometimes will utilize a verification checklist (VCL) or a DHS form telling clients what is needed to determine or redetermine eligibility. See Bridges Program Glossary (BPG) at page 47.

Verifications are considered timely if received by the date they are due. BAM 130, p. 6. For MA, the client has 10 days to provide requested verifications (unless policy states otherwise). BAM 130, p. 7. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM 130, p. 6.

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 should] use the best available information. If **no** evidence is available, [the Department should] use its best judgment. BAM 130, p. 3.

A case action notice is sent when:

- The client indicates refusal to provide a verification, **or**
- The time period given has elapsed. (BAM 130, p. 7.)

The Department sometimes will utilize a verification checklist (VCL) or a DHS form telling clients what is needed to determine or redetermine eligibility. See Bridges Program Glossary (BPG) at page 47.

In the instant matter, the ALJ affirmed the Department's denial of Claimant's application for retro MA benefits because he failed to provide verification of his earned income from the [REDACTED]. Claimant's Authorized Hearing Representative (AHR) asserts that the ALJ erred when he affirmed the Department's denial of his application because Claimant did not have income from the [REDACTED] during the period of time in question. Claimant's AHR further contends that Claimant, despite a reasonable effort, is unable to provide verification of income that does not exist and that the ALJ should have applied BAM 130 which instructs the Department caseworker that "if neither the client nor you can obtain verification despite a reasonable effort, use the best available information."

The Department received the Assistance Application (DHS-1171) and Retroactive Medicaid Application (DHS-3243) on November 12, 2013; neither of these documents indicated that Claimant had worked at the Michigan Army National Guard. However, the Department was aware that Claimant was previously employed with the Army National Guard. Accordingly, the Department, on November 8, 2013, mailed Claimant a Verification Checklist (DHS-3503) which requested, among other things, Claimant's wage verification in the form of an earnings statement/check stub from last 30 days or employer statement. The due date for the verifications was November 18, 2013.

On November 25, 2013, Claimant's AHR faxed a letter to the Department which requested a verification checklist for Claimant and included bank verification and wage income. At this point, the Department only generally requested Claimant's wage verifications but did not specifically request Claimant's verifications from the Army National Guard. On November 27, 2013, the Department mailed Claimant another Verification Checklist (DHS-3503) which included, among other things, that "Check stubs for Gino has been provided for OCT need check stubs for Lindsey that covers 10/3-10/24." The verifications were due by December 9, 2013. The November 27, 2013 verification checklist did not include any requests for verifications from the Army National Guard.

On December 12, 2013, the Department mailed Claimant's AHR a third Verification Checklist (DHS-3503) which, for the first time, sought Claimant's paycheck stubs and "Army reserved [sic] check . . . for Oct and Nov." These verifications were due by December 19, 2013. Six days later (December 18, 2013), Claimant's AHR faxed the Department a letter which included some wage verifications, but did not include any verifications from the [REDACTED]. On December 20, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied the application with the following comments, "Failed to provide requested information for National reserved income for [Claimant] for the month of OCT as requested." On February 21, 2014, Claimant obtained a letter from the [REDACTED] which indicated that

Claimant was not paid during the month of October, 2013, due to the government shut down.

After reviewing the case, Claimant's hearing request, the recorded hearing, and the Hearing Decision, it is determined that the Department improperly denied Claimant's application for MA and retro MA benefits. First, BAM 130, p. 7, provides that for MA cases, the client has 10 days to provide requested verifications (unless policy states otherwise). Here, the Department first requested Claimant's wage verification from the Army National Guard on December 12, 2013, but required the verifications to be received only 7 days later on December 19, 2013. The Department failed to comply with BAM 130's 10 day verification requirement for MA cases. In addition, the Department also failed to comply with the BAM 130, p. 7 requirement that if the client cannot provide the verification despite a reasonable effort, [the Department may] extend the time limit up to three times. Here, the Department failed to provide any extensions after it notified Claimant's AHR that verification from the Army National Guard was required. Moreover, BAM 130, p. 3, requires the Department tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department's first two verification checklists (November 8 and November 27) failed to comply with BAM 130 as they did not properly inform the client exactly what verification was needed and how to obtain it. The verification checklist also did not indicate that Claimant could comply with the verification request with a letter from the Army National Guard indicating that he did not have income in October. This could have been included in the comments section of the verification checklist. The Department failed to comply with policy and Claimant's application should not have been denied due to failure to provide verifications.

For these reasons, the undersigned finds that the ALJ erred when he affirmed the Department.

### **DECISION AND ORDER**

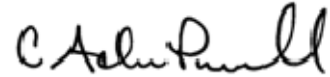
The undersigned, based on the above findings of fact and conclusions of law, finds that the Administrative Law Judge erred when he affirmed the Department's decision to deny Claimant's application for retro MA based on the failure to comply with verification requirements.

Therefore, it is ordered that the decision of the Administrative Law Judge generated at the conclusion of the April 23, 2014 hearing and mailed on May 16, 2014 is **VACATED** and the action taken by the Department is **NOT UPHELD**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

- The Department shall recertify and reprocess Claimant's November 12, 2013 applications for MA and retro MA.

- To the extent necessary, the Department shall request a remedy ticket to process the November 12, 2013 applications.



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C. Adam Purnell  
Supervising Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 10/06/2014

Date Mailed: 10/06/2014

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

2014-36141/CAP  
2014-30768 REHD/RECON

CAP/sw

cc:

