

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

**IN THE MATTER OF:**

██████████  
████████████████████  
██  
██

Reg. No.: 14-015077  
Issue No(s): 2002  
Case No.: ██████████  
Hearing Date: February 9, 2015  
County: Wayne (82)

**ADMINISTRATIVE LAW JUDGE:** Eric J. 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 telephone hearing was held on February 9, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR), ██████████, Benefit Specialist from Family Option Services, Inc. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

**ISSUE**

Did the Department properly deny Claimant's Medical Assistance (MA) application dated May 28, 2014, retroactive to April 2014?

**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 May 28, 2014, Claimant applied for MA – Long Term Care (LTC), retroactive to April 2014. See Exhibit 1, p. 1. With the application, Claimant provided an Irrevocable Funeral Contract Certification (DHS-8A) dated March 21, 2014. See Exhibit 1, p. 7. Claimant's AHR indicated they also provided both pages (pages 1 and 2) of the Guaranteed Price Pre-Need Funeral Installment Contract Statement of Funeral Goods and Services Selected (hereinafter referred to as "funeral installment contract statement").
2. On June 10, 2014, the Department sent Claimant's AHR a Medical Determination Verification Checklist (medical determination), which requested several

verifications. See Exhibit 1, pp. 9-10. In the verification, the Department requested a verification of pension of the burial funds that must be designated as an irrevocable and guaranteed price agreement. See Exhibit 1, p. 9. The verifications were due back by June 20, 2014. See Exhibit 1, p. 9.

3. On June 16, 2014, the Department indicated that it only received the first page of the funeral installment contract statement, but that it needed the second page. See Exhibit 1, p. 8.
4. On June 19, 2014, the Department sent Claimant a third request for the verification of the funeral installment contract statement and it was due back by June 30, 2014. See Exhibit 1, pp. 11-12. However, Claimant's AHR provided an e-mail that it was only the AHR's second extension. See Exhibit 1, p. 3.
5. On July 1, 2014, the Department sent Claimant's AHR a Notice of Case Action notifying her that the MA application was denied effective May 1, 2014, for failure to provide verification of the burial purchase agreement. See Exhibit 1, pp. 17-20.
6. On September 25, 2014, Claimant's AHR filed a hearing request, protesting the MA denial. See Exhibit 1, pp. 2, 5, 6, and 13.

### **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 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.

For Supplemental Security Income (SSI) – related MA only, funeral plan refers to the prearrangement for cemetery and/or funeral goods and services. BEM 400 (July 2014), p. 43. Normally, the plan is established using one or more of the following: burial fund, purchase of burial space, prepaid funeral contract, and life insurance funding. BEM 400, p. 43. Money set aside for these types of burial expenses might be excludable. For example, funds in an irrevocable prepaid funeral contract are unavailable and thus are not counted. BEM 400, p. 49. Funds in a Michigan contract (DHS-8A, Irrevocable Funeral Contract Certification) certified irrevocable are excluded. BEM 400, p. 49. This case appears to indicate that Claimant's case involved verification of an irrevocable prepaid funeral contract. See Exhibit 1, pp. 7-8 and 14. BEM 400 provides further discussion on funeral expenses/exclusions. See BEM 400, pp. 43-51. Nevertheless,

this hearing addresses Claimant's alleged failure to comply with the verification requirements.

In this case, on May 28, 2014, Claimant applied for MA – LTC on May 28, 2014, retroactive to April 2014. See Exhibit 1, p. 1. With the application, Claimant provided an Irrevocable Funeral Contract Certification (DHS-8A) dated March 21, 2014. See Exhibit 1, p. 7. Claimant's AHR indicated they also provided both pages (pages 1 and 2) of the funeral installment contract statement.

On June 10, 2014, the Department sent Claimant's AHR a medical determination, which requested several verifications. See Exhibit 1, pp. 9-10. In the verification, the Department requested a verification of pension of the burial funds that must be designated as an irrevocable and guaranteed price agreement. See Exhibit 1, p. 9. The verifications were due back by June 20, 2014. See Exhibit 1, p. 9.

On June 16, 2014, the Department indicated that it only received the first page of the funeral installment contract statement, but that it needed the second page. See Exhibit 1, p. 8.

On June 19, 2014, Claimant's AHR believed she again sent via e-mail the requested verifications (i.e., a DHS-8A and both pages of the funeral installment contract statement). See Exhibit 1, p. 15.

On June 19, 2014, the Department sent Claimant a third request for the verification of the funeral installment contract statement and it was due back by June 30, 2014. See Exhibit 1, pp. 11-12. However, Claimant's AHR provided an e-mail that it was only the AHR's second extension. See Exhibit 1, p. 3. During the hearing, the Department testified that its case notes indicated she sent a first VCL request on May 31, 2014 and an extension request was subsequently requested. The Department, though, failed to provide a copy of the first VCL request. It should be noted on February 9, 2015, the Department attempted to submit a post-hearing correspondence, apparently pertaining the VCL request dated May 31, 2014, however the hearing record had closed and this additional correspondence cannot be reviewed or considered.

On July 1, 2014, the Department sent Claimant's AHR a Notice of Case Action notifying her that the MA application was denied effective May 1, 2014, for failure to provide verification of the burial purchase agreement. See Exhibit 1, pp. 17-20.

Additionally, as part of the evidence packet, there were several e-mail exchanges between Claimant's AHR and the Department. It is clearly evident that Claimant's AHR sought assistance from the Department regarding the verification request. See Exhibit 1, pp. 3-4. The Department also testified that Claimant subsequently applied and was approved for other benefit periods. The Department testified that if Claimant submitted the funeral installment contract statement with the subsequent application, the Department would reinstate Claimant's case.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2014), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2014), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3 and see also BAM 815 (July 2014), pp. 1-16 (process for medical determination and obtaining medical evidence). The client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p. 3. If neither the client nor the local office 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.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130, p. 7. If the client cannot provide the verification despite a reasonable effort, the Department extends the time limit up to two times. BAM 130, p. 7. 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.

Based on the foregoing information and evidence, the Department improperly denied Claimant's MA – LTC application dated May 28, 2014, retroactive to April 2014. See Exhibit 1, p. 1.

First, there is a discrepancy as to whether the Department extended the time limit up to two times in order for the AHR to provide the verifications requested. The Department argued that it did provide Claimant with the two additional extensions. However, the Department failed to provide as evidence all three of the verification requests. In fact, Claimant indicated in an e-mail on June 30, 2014, that she believes she is only on her second extension and is requesting a third extension. See Exhibit 1, p. 3. Therefore, the Department failed to satisfy its burden of showing that it properly provided Claimant with two additional extensions in order for the AHR to provide the verifications requested. See BAM 130, p. 7.

Second, Claimant's AHR's e-mail correspondence clearly indicated that she sought assistance from the Department regarding the verification request. See Exhibit 1, pp. 3-4. For example, on June 24, 2014, Claimant's AHR sent an e-mail stating "Do you mean you need the statement of funeral goods and services form re-filled out? I still don't know what a purchase agreement is...." See Exhibit 1, p. 3. Furthermore, on June 30, 2014, Claimant's AHR stated in the e-mail "I still haven't heard from you..." See Exhibit 1, p. 3. The evidence presented that Claimant's AHR sought assistance from the Department for the required verification and the Department failed to assist per Department policy. See BAM 130, p. 3.

Third, Claimant's AHR credibly testified that she submitted the requested documents with the original application. In fact, it appeared when the AHR subsequently applied; she also provided the requested verifications because Claimant was approved for other benefit periods. This supports the AHR's assertion that she provided the requested documentation with the original application.

Nevertheless, for the above stated reasons, the Department did not act in accordance with Department policy when it improperly denied Claimant's MA application dated May 28, 2014, retroactive to April 2014.

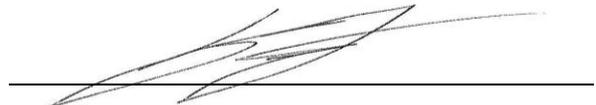
### **DECISION AND ORDER**

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 dated May 28, 2014, retroactive to April 2014.

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 reregistration and reprocessing of Claimant's MA application dated May 28, 2014, retroactive to April 2014;
2. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not from April 1, 2014, ongoing; and
3. Notify Claimant and Claimant's AHR of its MA decision in accordance with Department policy.



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

Date Signed: February 13, 2015

Date Mailed: February 13, 2015

EJF/cl

**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: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]