

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-014085
Issue No.: 2001
Case No.: ██████████
Hearing Date: February 25, 2015
County: Macomb-District 12

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 25, 2015, from Detroit, Michigan. Participants on behalf of Claimant included her Authorized Hearing Representative (AHR)/Legal Guardian, ██████████ and ██████████, Business Office Manager at ██████████ (Claimant's residence). Participants on behalf of the Department of Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Claimant's applications for Medical Assistance (MA) benefits?

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 or around June 13, 2014, Claimant's former Legal Guardian submitted an application for MA benefits, retroactive to March 2014 on behalf of Claimant.
2. On June 23, 2014, the Department sent Claimant and her representative a Verification Checklist (VCL) instructing them to provide proof of Claimant's stocks, veteran pension, life insurance, and bank statements by July 3, 2014. (Exhibit A)
3. On July 2, 2014, Claimant submitted some of the requested verifications. (Exhibit 1)

4. Claimant did not provide proof of her stock cash out or veteran pension by the July 3, 2014, due date on the VCL. (Exhibit 1)
5. On August 25, 2014, Claimant's former Legal Guardian submitted an application for MA benefits, retroactive to May 2014 on behalf of Claimant.
6. On August 25, 2014, Claimant submitted proof of her bank statements and patient trust statements with her application.
7. On August 26, 2014, the Department sent Claimant and her representative a VCL instructing them to provide proof of Claimant's bank statements, patient trust statements, veteran income, funeral contract, life insurance, and burial resources by September 5, 2014. (Exhibit B)
8. A request for extension was granted and the new due date for the VCL was changed to September 15, 2014. (Exhibit C)
9. On September 26, 2014, the Department sent Claimant and her representative a Benefit Notice advising of the Department's decision to deny Claimant's application on the basis that she failed to verify requested information. (Exhibit D)
10. On October 10, 2014, Claimant and her representative requested a hearing disputing the Department's actions.

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.

Claimant's AHR requested a hearing disputing the Department's actions with respect to applications for MA benefits submitted on Claimant's behalf. At the hearing, Claimant's AHR testified that she had not yet been appointed as Claimant's Legal Guardian at the time the applications were submitted but provided sufficient documentation establishing that she had the authority to act on Claimant's behalf for purposes of the current hearing. Shortly after commencement of the hearing, it was established that at issue,

were two separate MA applications submitted on behalf. Although an issue of timeliness of the hearing request was raised with respect to the first application submitted on June 13, 2014, the Department did not establish that Claimant was notified of the Department's decision with respect to the application, therefore, the hearing continued. Each application will be discussed individually.

June 13, 2014, MA Application, Retroactive to March 2014

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2014), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. BAM 130, p.7. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to three times. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p.6 The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7.

In this case, on or around June 13, 2014, Claimant's former Legal Guardian submitted an application for MA benefits, retroactive to March 2014 on behalf of Claimant. On June 23, 2014, the Department instructed Claimant and her representative to submit requested verifications by the July 3, 2014, due date. (Exhibit A). The Department testified that although some of the requested verifications were received on July 2, 2014, because Claimant did not submit proof of her veteran pension or complete information concerning the stock cash out, the application was denied. Claimant's AHR provided documentation of the proofs submitted to the Department on July 2, 2014, a review of which shows that verification of the veteran pension and sufficient information of the stock cash out was not included. (Exhibit 1).

Although the Department testified that a Benefit Notice was manually sent to Claimant and her representative on July 7, 2014, informing them of the application denial based on failure to verify, the Department failed to provide the Notice for review at the hearing. Claimant's AHR indicated that she did not receive any of the Notices because she was not Claimant's Legal Guardian at the time the applications were filed. Thus, the Department's testimony that a Notice was issued informing Claimant of the reason for intended action was unsupported by any documentary evidence. The Department's testimony that the application was denied based on a failure to verify also remained unconfirmed.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's June 13, 2014, MA application, retroactive to March 2014.

August 25, 2014, MA Application, Retroactive to May 2014

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2014), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. BAM 130, p.7. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p.6 The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7.

In this case, the Department testified that because Claimant and her representative did not provide proof of her veteran pension and funeral contract information by the extended September 15, 2014, due date, it sent Claimant and her representative a Benefit Notice advising of the denial of the application based on a failure to verify. (Exhibit C and Exhibit D). The Department stated that proof of Claimant's irrevocable funeral contract and veteran pension was received on October 10, 2014, with Claimant's hearing request. (Exhibit E).

At the hearing, Claimant's AHR testified that information was sent to the Department via [REDACTED] on August 21, 2014. There was conflicting information provided at the hearing concerning which application these documents were submitted in connection with, however. Initially, the Department indicated an application may have been filed on August 21, 2014, however, later, the Department stated that the documents were returned to Claimant as the Department determined that it was an incomplete application that did not contain the minimum amount of information necessary for registration. There was no evidence presented by Claimant's AHR at the hearing that proof of the veteran pension and the funeral contract was submitted to the Department prior to those received on October 10, 2014. Furthermore, Claimant's AHR was not the Claimant's Legal Guardian at the time the applications were submitted and did not have first-hand knowledge of the actions taken by Claimant's prior Legal Guardian with

respect to the applications and verifications requested and submitted to the Department. Therefore, Claimant's AHR was unable to refute the Department's testimony that all of the requested verifications were not submitted by the due date.

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 acted in accordance with Department policy when it denied Claimant's August 25, 2014, MA application, retroactive to May 2014.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to Claimant's August 25, 2014, MA application, retroactive to May 2014 and REVERSED IN PART with respect to Claimant's June 13, 2014, MA application, retroactive to March 2014.

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. Register and process Claimant's June 13, 2014, application for MA, retroactive to March 2014, to determine Claimant's eligibility for MA benefits under the most beneficial category;
2. Provide Claimant with any MA coverage that she was entitled to receive but did not from March 2014, ongoing; and
3. Notify Claimant and his representative of its decision in writing.



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

Date Signed: **3/24/2015**

Date Mailed: **3/24/2015**

ZB / tlf

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]