

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

IN THE MATTER OF:



Reg. No.: [REDACTED]
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: May 7, 2015
County: Oakland (2) Madison Hts

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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; and Mich Admin Code, R 792.11002. After due notice, a three-way telephone hearing was held on May 7, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included Hearings Facilitator Brenda Drewnickzi.

ISSUE

Did the Department properly deny Claimant's application for Medical Assistance (MA)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for MA on August 28, 2014. (Exhibit A Pages 1-7.)
2. In early November 2014, Claimant moved back to his parents' home and reported his new address to the Department.
3. On November 14, 2014, the Department mailed to Claimant a Verification Checklist (VCL) requiring him to verify life insurance values by November 24, 2014. (Exhibit C Pages 1-2.) The VCL was mailed to his old address instead of his parents' address. Included were three Life Insurance Verification forms. (Exhibit D Pages 1-6.)
4. Claimant did not receive the documents mailed November 14, 2014, in sufficient time for him to respond by the due date.

5. On February 27, 2015, the Department mailed to Claimant a Health Care Coverage Determination Notice informing him his application was denied because he had not verified the life insurance information.
6. The Department received Claimant's hearing request on March 10, 2015.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Claimant had three life insurance policies and the Department needed him to verify the cash value – if any- for each policy. They mailed the verification forms to him, but they mailed them to his former address.

Per BEM 103, the Department is to:

“Send a negative action notice when:

“The client indicates refusal to provide a verification, **or**

“The time period given has elapsed and the client has **not** made a reasonable effort to provide it.”

Further guidance is found in BAM 130 (10/1/14):

BAM 130,

“The client must obtain required verification, but you must assist if they need and request help.

“If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.”

The issue is whether the Claimant provided timely verification in response to the request. For the client to be able to provide the necessary verification the client must receive the verification request. Claimant testified that he notified his case worker in early November that his address had changed. The Department mailed the verification forms to his former address in the middle of November. Eventually the Department obtained information showing that Claimant's Prudential policy had a net cash value of \$[REDACTED]. His policy through National Benefit Life Insurance had been surrendered in 2013 and thus had no cash value. The Foresters policy had a cash value of \$[REDACTED]. Claimant had previously provided verification of the policy values when requested as a result of prior applications and redeterminations.

The evidence is convincing that Claimant made a reasonable effort to comply with the Department's request, once he received the request. The Department should have mailed to the verification forms to the correct address. Even without the current verification regarding the policies, the Department could have used the available information from the past verifications.

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 closed Claimant's MA.

DECISION AND ORDER

Accordingly, the Department's 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. The Department shall initiate a redetermination as to whether Claimant is entitled to retroactive and/or supplemental MA benefits as provided by applicable policies.



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/11/2015**

Date Mailed: **5/11/2015**

DJ/jaf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:



Oakland-District 2 (Madison Hts)
BSC4
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EQAD
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MAHS