

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

**IN THE MATTER OF:**

██████████  
██████████  
██████████

Reg. No.: 15-007176  
Issue No.: 2002  
Case No.: ██████████  
Hearing Date: June 10, 2015  
County: WAYNE-DISTRICT 18  
(TAYLOR)

**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; and Mich Admin Code, R 792.11002. After due notice, a three-way telephone hearing was held on June 10, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR), ██████████  
██████████ Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████, Hearings Facilitator.

**ISSUE**

Did the Department properly deny Claimant's Medical Assistance (MA) application effective September 1, 2013?

**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 December 19, 2013, the authorized representative (AR – who is also the AHR in this case) applied for MA benefits on behalf of the Claimant, retroactive to September 2013. See Exhibit A, pp. 3-32.
2. In the application, Claimant reported several assets, including cash on hand/in safe deposit box, checking accounts, real estate/property, and a savings account. See Exhibit A, pp. 18-19. The alleged asset at issue in this case is the cash on hand/in safe deposit box; however, Claimant did not report such an asset for the retroactive periods. See Exhibit A, pp. 31-32.

3. On November 12, 2014, the Department sent Claimant/AHR a Verification Checklist (VCL), which requested several proofs and they were due back by November 24, 2014. See Exhibit A, pp. 33-34. Specifically, the Department requested “all banking information regarding a safe deposit box at Fifth Third Bank.” See Exhibit A, p. 33.
4. On November 14, 2014, the AHR submitted several verifications, including a written statement from Claimant that explains that the safe deposit box belongs to his mother and was put in his name as she was sick. See Exhibit A, pp. 44-53.
5. On November 14, 2014, the AHR also notified the Department in writing that if additional information is needed or if the AHR misunderstood the request, to please notify the AHR and grant an extension. See Exhibit A, p. 44.
6. On January 26, 2015, the Department sent only the Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that his MA application was denied effective September 1, 2013, ongoing, for failure to provide verification of bank account savings/checking. See Exhibit A, pp. 35-38.
7. On April 29, 2015, the Department sent the AHR a Facility Admission Notice notifying the AHR that Claimant’s MA eligibility was denied for failure to provide asset information. See Exhibit A, p. 54.
8. On April 29, 2015, Claimant’s AHR filed a hearing request, protesting the Department’s action. See Exhibit A, p. 2.

### **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.

#### **Preliminary matter**

The evidence established that the AHR did not receive notice of the MA denial until April of 2015. See Exhibit A, p. 54. Based on the foregoing information, the undersigned

finds that the AHR's hearing request (dated April 29, 2015) is timely and therefore, the undersigned has the jurisdiction to address the MA denial. See BAM 600 (January 2015 and April 2015), pp. 1-6.

### **MA application**

Assets must be considered in determining eligibility for FIP, SDA, RCA, G2U, G2C, RMA, SSI-related MA categories, and FAP. BEM 400 (January 2015), p. 1. Assets mean cash, any other personal property and real property. BEM 400, p. 1. Real property is land and objects affixed to the land such as buildings, trees and fences. BEM 400, p. 1. Condominiums are real property. BEM 400, p. 1. Personal property is any item subject to ownership that is not real property (examples: currency, savings accounts and vehicles). BEM 400, p. 1.

Asset eligibility is required for G2U, G2C, RMA, and SSI-related MA categories. BEM 400, p. 5. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 6.

An asset must be available to be countable. BEM 400, P. 9. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p. 9. Assume an asset is available unless evidence shows it is not available. BEM 400, p. 9.

Money/currency, checking/draft accounts, etc., are considered types of assets. See BEM 400, p. 14.

The Department verifies the value of countable assets at application, redetermination and when a change is reported. BEM 400, p. 56. The Department verifies value of countable assets at application, redetermination and when a change is reported. The Department uses the DHS-20, Verification of Assets, the DHS-27, Release of Information, or other specified form as appropriate, when helping a person verify assets. BEM 400, p. 57.

First, the undersigned finds that the Department acted in accordance with Department policy when it requested verification of Claimant's safe deposit box because Claimant reported cash on hand/in safe deposit box as a type of asset in his application. See Exhibit A, pp. 18-19. It is reasonable for the Department to verify Claimant's safe deposit box to ensure that there are no assets available, such as money/currency. See BEM 400, p. 14.

In response to the VCL request, on November 14, 2014, the AHR submitted several verifications, including a written statement from Claimant that explains that the safe deposit box belongs to his mother and was put in his name as she was sick. See Exhibit A, pp. 44-53. Furthermore, Claimant wrote that the safe deposit box contains a

car title, important paperwork, her will, and assorted papers from the funeral home that she pays for herself. See Exhibit A, p. 39. Finally, Claimant wrote that he is her power of attorney and holds on to these papers in safe keeping. See Exhibit A, p. 39.

At the hearing, the Department testified that Claimant's written statement was inadequate per policy guidelines and that Claimant should have submitted additional verifications from his financial institution. See Exhibit A, p. 1. In response, the AHR argued that Claimant's written statement was sufficient verification and the fact there were no countable assets listed in the written statement, no further verification of the safe deposit box was necessary.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (October 2014), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3.

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.

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, extend the time limit up to two times. BAM 130, p. 7.

At application, redetermination, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. BAM 130, p. 7. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.
- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.
- Every effort by the department was made to assist the client in obtaining verifications.

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. 8. Only adequate notice is required for an application denial. BAM 130, p. 8.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it denied Claimant's MA application.

First, policy states that 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. In this case, Claimant's application was denied based on his failure to provide adequate verification of his safe deposit box. However, the undersigned finds that Claimant did provide the best available information regarding the verification of the safe deposit box. See Exhibit A, pp. 44-53. A review of BEM 400, Assets, finds no policy reference to safe deposit boxes. Nevertheless, Claimant provided the best available information to the Department and the Department should not have denied Claimant's application.

Second, the Department failed to provide the AHR an extension as it was requested by the AHR in accordance with Department policy. On November 14, 2014, the AHR notified the Department in writing that if additional information is needed or if the AHR misunderstood the request, to please notify the AHR and grant an extension. See Exhibit A, p. 44. The Department argued that the Claimant's written statement for the safe deposit was inadequate; therefore, an extension should have been provided in order for the AHR to obtain further verification. See BAM 130, p. 7.

### **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 December 19, 2013, retroactive to September 2013.

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 December 19, 2013, retroactive to September 2013;
2. Begin issuing supplements to Claimant for any MA benefits he was eligible to receive but did not from September 1, 2013, ongoing; and

3. Begin notifying Claimant and the AHR of its decision.



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**Eric Feldman**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **6/12/2015**

Date Mailed: **6/12/2015**

EJF/tm

**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:

[REDACTED]  
[REDACTED]  
[REDACTED]  
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