

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-006134
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: June 04, 2015
County: St. Clair

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 telephone hearing was held on June 4, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], daughter and Authorized Hearing Representative (AHR), and [REDACTED], son-in-law. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], General Services Program Manager, and [REDACTED], Case Manager.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case based on assets in excess of program limits?

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's MA case was due for Redetermination in February 2015.
2. A Medicaid Application Patient of Nursing Home was submitted on February 3, 2015.
3. A Verification Checklist was issued to Claimant on February 11, 2015, stating current banking verifications dated within the past 30 days were needed by the February 23, 2015, due date.
4. Banking verifications were received on February 25, 2015.

5. On March 26, 2015, a Health Care Coverage Determination Notice was issued, in part stating Claimant was not eligible for May 2015 and ongoing due to assets in excess of program limits.
6. On April 6, 2015, a hearing request was filed on Claimant's behalf contesting the Department's determination.

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.

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

In this case, the applicable MA asset limit was \$2,000 for a group size of one. BEM 400, p. 7.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130, (October 1, 2014), p. 1. (Emphasis in original)

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

Additionally, at application, **redetermination**, ex parte review, or other change, the Department is to explain to the client/authorized representative the availability of their assistance in obtaining needed information. 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. (emphasis added by ALJ)

The Department's testimony indicated the MA case should have closed earlier based on a failure to complete the Redetermination process, including timely submission of requested verifications. While that was not the action taken in this case due to a computer system issue, it is noted that the BAM 130 policy does allow for an extension of the due date for providing verifications at Redetermination. Further, there was evidence addressing the attempt to timely submit the verification and an offer provide additional verification if needed. Specifically, a letter from Claimant's AHR submitted with the requested verifications on February 25, 2015, explains that she was at the local Department office at 1:50 p.m. on the due date, February 23, 2015, to drop off the required paperwork, but was told by the receptionist that she must scan the documents into the system or mail it. Thus, it appears that the verifications were two days late because the local office refused to allow them to be dropped off on the due date and they were then mailed. The letter also explained that the figure on the balance of the submitted statement is incorrect as there have been checks written since that dropped the balance. The AHR offered to get a statement from the bank if needed.

The action actually taken by the Department in this case was a closure of Claimant's MA case effective May 1, 2015, due to assets in excess the applicable \$2,000 program limit based on the bank verification submitted on February 25, 2015.

It is noted that the February 11, 2015, Verification Checklist specified that the requested bank verification needed to be dated within the past 30 days. Thus, on February 25, 2015, the January 1-31, 2015, bank statement was appropriately provided. The hearing summary documents that the case was certified to close on March 26, 2015. At that time, the Department also had the letter submitted with the bank verification indicating that balance amount was no longer correct and stating additional documentation could be obtained. The Department should not have utilized asset information that was stated to no longer be accurate to determine Claimant's ongoing MA eligibility. Pursuant to BAM 130, the Department should have requested the updated asset verification, as offered by Claimant's AHR, before making the determination for ongoing MA eligibility as this was a reported change that potentially affected eligibility.

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 closed Claimant's MA case based on assets in excess of program limits.

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. Re-determine Claimant's eligibility for MA retroactive to the May 1, 2015, effective date, to include requesting any additional verification(s) that are needed, in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/30/2015**

Date Mailed: **6/30/2015**

CL / 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:

