

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-007881
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: July 14, 2015
County: Ottawa

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on July 14, 2015, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's attorney [REDACTED], and [REDACTED], paralegal. Participants on behalf of the Department included Assistant Attorney General [REDACTED] and [REDACTED] as hearing facilitator for the Department.

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Claimant's application 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. The Department received the Claimant's application for Medical Assistance (MA) on December 31, 2015.
2. On January 8, 2015, the Department sent a Verification Checklist (DHS-3503) requesting verification of assets by January 20, 2015.
3. On January 20, 2015, the Department granted the Claimant's request for an extension to the verification due date.
4. On January 22, 2015, the Department granted a second extension to the verification due date.
5. On February 6, 2015, the Department notified the Claimant that it had denied her application for assistance.

6. On May 7, 2015, the Department received the Claimant's request for a hearing protesting the denial of Medical Assistance (MA) benefits.

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 means 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. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (October 1, 2014), pp 1-7.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (April 1, 2015), p 5.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (October 1, 2014), pp 1-9.

The Department received the Claimant's application for Medical Assistance (MA) on December 31, 2015. The Department requested verification of certain assets listed on a Verification Checklist (DHS-3503) by January 20, 2015. The Department granted two requests for extensions to the due date for verification material. On February 6, 2015,

the Department had received insufficient verification of the Claimant's assets to make an accurate determination of her eligibility for MA benefits and it denied the application for assistance.

The Claimant's attorney argued that the Department failed to grant a third extension to the verification due date, which was within the discretion of the Department to grant.

The Department's representative concedes that it is within the discretion of the Department to grant an additional extension to submit verification material. While the Department may have the authority to grant a third extension to the due date of a verification checklist, it is not within the authority of this Administrative Law Judge to order the Department to grant such an extension. Department policy in BAM 130, outlines a procedure where the Department may grant up to two extensions for verification and that is what the Department granted in this case. Administrative Law Judges have no authority to exceptions to the Department policy set out in the program manuals. Administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Claimant's attorney argued that the Department's denial of MA benefits was untimely. The Claimant's attorney argued that the application should have been approved, but that if it had been denied sooner, the Claimant could have made corrections in a subsequent application and received the benefits she is eligible for sooner.

The Department is required to certify program approval or denial of the application for MA benefits within 45 days. Department of Health and Human Services Bridges Administrative Manual (BAM) 115 (January 1, 2015), p 15.

The Department received the Claimant's application for MA benefits on December 1, 2014. This application was denied on February 6, 2015. This Administrative Law Judge finds that despite the Claimant's failure to submit required verification documents in a timely manner, the Department's denial was a timely determination of eligibility as defined by BAM 115 because the application was disposed of 37 days after it was received.

The Claimant's attorney argued that the Department failed to assist the Claimant with obtaining the missing verification material, or make a determination without verification by using its best judgment.

The client must obtain required verification, but the local office must assist if they need and request help. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department will use the best available information. If no evidence is available, the Department will use its best judgment. Department of Health and Human Services Bridges Administrative Manual (BAM) 130 (July 1, 2015), p 3.

This Administrative Law Judge finds that the evidence on the record does not support a finding that the Claimant made a reasonable effort to obtain the verification material requested by the Department.

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 the Claimant's Medical Assistance (MA) application for failure to provide the Department with information necessary to determine her eligibility to receive benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/21/2015**

Date Mailed: **7/21/2015**

KS/las

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:

