

**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.: 15-018323
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: December 10, 2015
County: Wayne-District 19
(Inkster)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner'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 3-way telephone hearing was held on December 10, 2015, from Detroit, Michigan. Petitioner was represented by [REDACTED] representative with [REDACTED], Petitioner's authorized hearing representative (AHR). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] application for Medicare Savings Program (MSP) 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 [REDACTED], Petitioner applied for MSP benefits and identified the AHR as her authorized representative (Exhibit 2).
2. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL) requesting proof of self-employment income by [REDACTED] (Exhibit A).
3. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that her application was denied because she had failed to verify requested information.

4. On [REDACTED], the AHR filed a request for hearing disputing the Department's actions.

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.

The Department denied Petitioner MSP application on the grounds that she had failed to verify income. The AHR disputed the Department's denial, arguing that a copy of Petitioner's tax return was included with the application to verify her income and that, despite the fact that the AHR was Petitioner's authorized representative, the Department did not send it any of the correspondence it sent Petitioner.

At the hearing, the Department was unable to establish whether a copy of the tax return was included with the application. However, the Department acknowledged that in her application Petitioner authorized the AHR to serve as her authorized representative (Exhibit 2). An authorized representative is a person who applies for assistance on behalf of the client and/or otherwise acts on her behalf. BAM 110, p. 8. Therefore, the AHR, as Petitioner's authorized representative, was entitled to any notices the Department sent Petitioner. The Department admitted at the hearing that it had failed to send to the AHR, as Petitioner's authorized representative, the VCL it sent Petitioner on [REDACTED] and the Health Care Coverage Determination Notice it sent her on [REDACTED]. It also admitted that it had erred in sending notices to Petitioner at an address that did not include the apartment number Petitioner identified on her application, resulting in mail it sent Petitioner being returned to the Department as undeliverable. The Department testified that it filed a help-desk ticket, no. [REDACTED], in order to correct its error by reregistering and reprocessing Petitioner's application, but there was no evidence that the issue had been resolved as of the hearing 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 did not act in accordance with Department policy when it denied Petitioner's MSP application.

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. Process help desk ticket no. BR-0212664 to reregister and reprocess Petitioner's April 28, 2015 MSP application;
2. Issue supplements to the Social Security Administration for any MSP benefits Petitioner was eligible to receive from April 2015 ongoing but did not; and
3. Notify Petitioner and the AHR in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/17/2015**

Date Mailed: **12/17/2015**

ACE / 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 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:

