

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

IN THE MATTER OF:

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Reg. No.: 15-003885
Issue No.: 2002
Case No.: ██████████
Hearing Date: May 07, 2015
County: Macomb-District 12

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 Detroit, Michigan. Participants on behalf of Claimant included her Legal Guardian/Attorney ██████████ ██████████; Attorney ██████████ ██████████; and Paralegal ██████████. Participants on behalf of the Department of Health and Human Services (Department) included Assistant Attorney General ██████████ and ██████████ ██████████ Hearings Facilitator.

ISSUE

Did the Department properly deny 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. On or around November 14, 2014, Claimant submitted an application for MA benefits. (Exhibit 3)
2. On December 3, 2014, the Department sent Claimant and her Legal Guardian a Verification Checklist (VCL) instructing them to provide requested proofs by December 15, 2014. (Exhibit A)
3. Claimant's representative contacted the Department on December 16, 2014, and December 17, 2014, requesting an extension in order to obtain the requested verifications.

4. On December 19, 2014, Claimant's representative submitted the requested verifications to the Department. (Exhibit 1)
5. On December 23, 2014, the Department sent Claimant and her Legal Guardian a Benefit Notice advising of the Department's decision that Claimant is not eligible for MA on the basis that Claimant failed to provide documentation of assets, income, burial, and health premiums. (Exhibit B and Exhibit 2)
6. On March 23, 2015, ██████████ requested a hearing on behalf of Claimant disputing the Department's denial of the MA application.

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.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (October 2014), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. BAM 130, pp.7-8. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, p. 7-8. Extensions may be granted when the client or authorized representative makes a request, when the need for the extension and the reasonable efforts taken to obtain the verifications are documented, and when every effort by the Department was made to assist the client in obtaining the

verifications. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p.7-8. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8.

In this case, the Department testified that because Claimant and her representative did not submit the requested verifications by the December 15, 2014, due date listed on the VCL and because there was no request for extension made prior to December 15, 2014, it sent Claimant and her representative a Benefit Notice on December 23, 2014, advising of the Department's decision to find Claimant ineligible for MA benefits, as the Department determined that no reasonable efforts were made to submit the verifications. (Exhibit A and Exhibit B).

At the hearing, Claimant's representative presented testimonial and documentary evidence to establish that on December 16, 2014, and December 17, 2014, attempts were made by [REDACTED] to contact the Department and Claimant's case worker to request an extension of time to submit the requested verifications, with no response from the Department. Claimant's representatives testified that after not receiving any response from the Department, on December 19, 2014, all of the requested verifications were submitted to the Department via fax. (Exhibit 1). Claimant's representative asserted that because the verifications were submitted within the timeframe of what should have been the first extension and because the verifications were received by the Department prior to the December 23, 2014, Benefit Notice, the denial was improper.

Although the Department acknowledged that all of the verifications were received on December 19, 2014, the Department asserted that the proof of Claimant's State of Michigan pension that was submitted was insufficient, as it only reflected the net pension amount and gross amount is required by policy. A review of the VCL establishes however, that the Department did not inform Claimant or her representative that verification of the gross amount of Claimant's pension was required. (Exhibit A). The Department also contended that at the time the Benefit Notice was issued, none of the documents that had been submitted by Claimant on December 19, 2014, were scanned and uploaded to Claimant's electronic case file, so Claimant's case worker likely did not know the verifications were received; however, policy provides that for electronically transmitted verifications such as those submitted via fax in this case, the date of transmission is the receipt date. BAM 130, p. 7.

The Department's action to deny an application is considered to be a negative action that requires adequate notice sent to the client at the same time an action takes effect. BAM 220 (October 2014), pp. 1-2. In certain situations such as those in which the requirement is met before the negative action effective date, the negative action must be deleted. The Department is to enter the information the client provided to meet the requirement that caused the negative action and follow the additional steps provided for in policy to delete the negative action. BAM 220, pp. 12-13.

Therefore, under the facts in this case and based on the evidence presented, because Claimant and her representative made reasonable efforts to comply with the Department's request for verifications and submitted the verifications prior to the December 23, 2014, negative action effective 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 Claimant's MA application on the basis that she failed to verify requested information.

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. Register and process Claimant's November 14, 2014, application for MA benefits to determine her eligibility for MA under the most beneficial program;
2. Provide Claimant with any MA benefits/coverage that she was entitled to receive but did not from the application date, ongoing; and
3. Notify Claimant and her representative of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/5/2015**

Date Mailed: **6/5/2015**

ZB / 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:

[REDACTED]