

**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.: 15-006717
Issue No.: 2002
Agency Case No.: [REDACTED]
Hearing Date: August 05, 2015
County: Washtenaw (20)

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, an in-person hearing was held on August 5, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant; [REDACTED], Enrollment Specialist; and [REDACTED], Attorney, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Assistant Attorney General; [REDACTED], Assistance Payments Worker (APW); and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly deny Claimant's Medial Assistance (MA) application based on a failure to comply with verification requirements?

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 23, 2014, Claimant applied for MA.
2. On February 9, 2015, Claimant filed an application for retroactive MA to November 2014.
3. On February 12, 2015, the Department received copies of some paychecks from Respondent.
4. On March 25, 2015, a Verification Checklist was issued to Claimant stating that verifications were due by an April 6, 2015, due date. There was an explanation of why previously submitted bank statements were not sufficient and verification of checking account was requested. It was also requested that Claimant provide

additional information about missing check stubs, but there was no explanation or information about what check stubs were missing.

5. On April 6, 2015, Claimant faxed documentation to the Department.
6. On April 6, 2015, Claimant emailed the APW some documentation, noting that two envelopes of papers were sent almost two months ago, and requested that APW let her know if more information was needed.
7. On April 7, 2015, a Health Care Coverage Determination Notice was issued stating MA was denied for December 1, 2014, and ongoing because missing paystubs were not returned.
8. On April 20, 2015, Claimant filed a hearing request contesting the Department's action.

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, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105, (April 1, 2015), p. 8.

In general, verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. BAM 130, (October 1, 2014), pp. 1-3.

Verifications are considered timely if received by the date they are due. For MA, the Department must 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 can extend the time limit up to two times. Extension may be granted when: 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; and every effort by the department was made to assist the client in obtaining verifications. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 7-8.

In this case, the April 7, 2015, Health Care Coverage Determination Notice states Claimant's MA application was denied because missing paystubs were not returned.

However, the Department's documentation does not establish that they properly requested the missing paystubs. The March 25, 2015, Verification Checklist states that the requested verifications were due by an April 6, 2015, due date. There was at least some explanation in the comments section of why previously submitted [REDACTED] statements were not sufficient and verification of checking account was specifically requested. However, regarding the paycheck stubs, the second page of the Verification Checklist only states "Please provide additional information about: missing check stubs." There is no explanation or other information provided on this Verification Checklist about what type of check stubs were missing, such as paycheck stubs from which employer and for what time periods.

When asked how to tell which check stubs were missing based on this Verification Checklist, the APW testified that the Department always asks for 30 days of paycheck stubs and indicated she would have to look at the application to see what income was reported and at what check stubs were received to determine what was missing. Accordingly, even the APW could not say what specific check stubs were missing by looking at the March 25, 2015, Verification Checklist itself.

Additionally, the Department did not provide copies of what Claimant submitted in response to this checklist. There is only a case comment dated April 7, 2015, stating back statements submitted and paystubs were not. This also does not indicate when or how the verification was received, such as by fax, mail, or email.

Claimant provided a fax journal report showing multiple successful transmissions to the Department's fax number on April 6, 2015, totaling 8 pages. Claimant also provided documentation of an email sent to the APW, with an attachment, on April 6, 2015. The APW states she never received this email from Claimant, but confirmed this email was sent to the correct email address for her. In the April 6, 2015, email, Claimant noted that two envelopes of papers were sent almost two months ago with basically the same information, and requested that APW let her know if more information was needed. Lastly, Claimant and the Enrollment Specialist provided credible testimony regarding the APW not responding to messages. The Enrollment Specialist noted that he had a release of information from Claimant to allow the Department to speak with him about her case.

Overall, the evidence shows that the Department did not comply with the above cited BAM 130 policy in requesting the paycheck stubs. As issued, the request for more information about missing check stubs on the March 25, 2015, Verification Checklist did not clearly tell

Claimant what specific verification was required as there was no explanation or information about what check stubs were missing. Claimant's April 6, 2015, email with attached documentation was sent to the APW's correct email address, noted prior submission of the same verifications, and requested that the APW let her know if more information was need. The BAM 130 policy allows for up to two extensions of a Verification Checklist due date. The Department did not allow for any extension or let Claimant know what additional information was still needed. Rather, Claimant's MA application was denied. There was no evidence that Claimant refused to provide any requested verification. Further, the evidence indicates the Department received more documentation from Claimant than what was included in their Exhibit packet and that the APW did not respond to Claimant and the Enrollment Specialist's attempts to contact her regarding Claimant's MA application.

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 based on a failure to comply with verification requirements.

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 for the December 23, 2014, and February 9, 2015, application dates, to include clearly requesting any additional verifications that are still 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 Mailed: **8/14/2015**

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:

