

**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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MAHS Reg. No.: 15-016212
Issue No.: 2002
Agency Case No.: ██████████
Hearing Date: November 02, 2015
County: Macomb-District 36

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 telephone hearing was held on November 2, 2015, from Detroit, Michigan. Petitioner appeared for the hearing with his wife, ██████████ and represented himself. The Department of Health and Human Services (Department) was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) and Medicare Savings Program (MSP) case on the basis that he failed to verify requested information?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of MA and MSP benefits.
2. On July 30, 2015, and in connection with a fraud complaint, the Department sent Petitioner a Verification Checklist instructing him to submit requested verifications by August 10, 2015. (Exhibit A)
3. On August 13, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that effective September 1, 2015, his MSP and MA cases would be closed on the basis that verifications were not returned. (Exhibit B)

4. On August 31, 2015, Petitioner requested a 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.

MSP are SSI-related MA categories. Qualified Medicare Beneficiaries (QMB) is a full coverage program. BEM 165 (January 2015), p. 1. Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2015), 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 make a request, when 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 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, Petitioner was an ongoing recipient of MA benefits under the Ad-Care program and MSP benefits under the QMB category. The Department stated that on

July 30, 2015, it received a fraud complaint alleging that: Petitioner has unreported income as a landscaper; Petitioner recently inherited a [REDACTED] life insurance policy from his friend; and that Petitioner inherited a trailer from his friend that he recently sold. (Exhibit C).

In connection with the fraud complaint, the Department sent Petitioner a VCL instructing him to submit proof of: bank account information from the last 90 days; wages; recent insurance payment received due to death of family/friend; income received for land/property sold within last few months; and real property. (Exhibit A). The Department stated that although it received some bank account information from Petitioner, because he did not submit the remaining verifications that were requested and because no request for extension was made, it sent Petitioner a Health Care Coverage Determination Notice advising of the MA and MSP case closures effective September 1, 2015. (Exhibit B; Exhibit C).

At the hearing, Petitioner and his wife confirmed receiving the VCL and stated that they submitted proof of their bank account information. Petitioner and his wife further confirmed that they did not provide the Department with the other requested verifications by the due date. Petitioner's wife testified that she and her husband had some additional documents such as receipts in connection with the life insurance policy and sale of the trailer that were presented to the Department at the pre-hearing conference. Petitioner's wife stated that she and her husband were informed the documents could be presented at the hearing, however, Petitioner and his wife did not establish that the documents were presented to the Department by the due date or prior to the negative action 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 because the Department did not receive all of the requested verifications by due date, the Department acted in accordance with Department policy when it closed Petitioner's MA and MSP cases.

Petitioner was informed that he is entitled to submit a new application for MA benefits and have his eligibility determined. There was also some testimony at the hearing concerning the closure of Petitioner's wife's MA benefits; however, it was established that Petitioner's wife was not notified of the closure until after the date that Petitioner's request for hearing was submitted. Thus, Petitioner's wife was informed that she was entitled to request a hearing to dispute the case closure should she so choose.

DECISION AND ORDER

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



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

Date Signed: **11/18/2015**

Date Mailed: **11/18/2015**

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]