



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

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

Date Mailed: March 16, 2016
MAHS Docket No.: 15-018603
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, an in-person hearing was held on February 18, 2016, from Southfield, Michigan. Petitioner was represented by attorney [REDACTED]. Appearing on Petitioner’s behalf were [REDACTED], his wife, and [REDACTED], his niece and authorized hearing representative (AHR). [REDACTED] Petitioner’s sister, and [REDACTED], [REDACTED] colleague, were present at the hearing but did not participate. Assistant Attorney General [REDACTED] represented the Department of Health and Human Services (Department). Appearing on the Department’s behalf were [REDACTED], Departmental Technician, and [REDACTED], Department Manager. Serving as translators ([REDACTED]) via telephone conference were [REDACTED], [REDACTED], and [REDACTED]

ISSUE

Did the Department properly deny Petitioner’s April 27, 2015 Medicaid (MA) long-term care (LTC) application, with request for retroactive coverage to January 2015, due to failure to verify?

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 April 27, 2015, Petitioner applied for MA LTC benefits with retroactive benefits to January 2015 (Exhibit A, pp. 1-9).

2. In processing the application, the Department became aware that Petitioner and his wife had a savings account with [REDACTED], account ending [REDACTED], that had not been identified in Petitioner's application (Exhibit C).
3. On June 1, 2015, the Department sent the AHR, who is also Petitioner's niece and co-guardian, a Verification Checklist (VCL) requesting, in part, verification of checking and savings accounts by June 11, 2015. In the "comments from the specialist" section of the VCL, the Department specified as follows:

[The Department] needs the following in order to complete processing the Medicaid application. 1.) Bank statements for January 2014 and April 2015 for all of the following account. The bank statements must show the entire account number, the date, the balance and the name on the account. If the account was closed, proof of the date of closure from the bank is needed. [REDACTED] checking and savings, [REDACTED] checking and Savings, [REDACTED] (3) three accounts.

(Exhibit D.)

4. Requested extensions of the due date by the AHR were granted by the Department.
5. On June 16, 2015, [REDACTED] Bank sent Petitioner and his wife a letter concerning their savings account ending 9957, stating that the account had been closed as of September 15, 2011 (Exhibit I).
6. [REDACTED] is currently [REDACTED].
7. On June 30, 2015, the Department received from the AHR a "letter of reference" dated June 17, 2015 on [REDACTED] letterhead confirming account information as follows: under account title, Petitioner's and his wife's name are listed; under account open date, "12-14-2007" is listed; under account type, "saving acct" is listed; and under current available balance, "0" is listed. Written in under the account open date is "account closed date: 09-15-2011." Attached to the letter of reference was a savings account statement for [REDACTED] savings account ending [REDACTED] for the period July 1, 2011 to September 30, 2011 listing a current balance of \$0. (Exhibit F.)
8. On June 30, 2015, the Department worker sent the AHR an email requesting, in relevant part, by July 10, 2015, proof of closure of the [REDACTED] savings account ending in [REDACTED]. The worker explained as follows:

The statement provided doesn't include an account number and is not sufficient proof of account closure. The bank statement submitted with the statement does not state the account was closed, only that all funds were removed. An account balance of \$0 is not proof of closure.

(Exhibit E.)

9. On July 10, 2015, the AHR responded to the worker via email and stated with respect to the [REDACTED] account ending [REDACTED] “[p]er the Branch Manager, this letter must come from their corporate headquarters and will take 7-10 business days, this has already been requested and we have not received it yet. Any suggestions?” The AHR asked for assistance regarding this matter. (Exhibit H.)
10. On August 6, 2015, the Department sent the AHR a Health Care Coverage Determination Notice denying the application. The “comments from the specialist” explained that the application was denied for not timely providing all requested documents and specified that proof of [REDACTED] Account closure ending [REDACTED] was missing upon final processing. (Exhibit G.)
11. On October 1, 2015, the Department received Petitioner’s written request for hearing 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.

The Department testified that it denied Petitioner’s April 27, 2015 MA application because Petitioner failed to verify his [REDACTED] savings account ending [REDACTED]. Although the Health Care Coverage Determination Notice also indicates that the closure was also due to the failure to verify an insurance policy, at the hearing, the assistant attorney general conceded that the insurance policy had been properly verified and that the application denial was due only to the failure to verify the [REDACTED] savings account ending [REDACTED]. The hearing proceeded to address the [REDACTED] account.

Asset eligibility is required for MA coverage under SSI-related MA categories, which includes individuals who are aged, disabled or blind and seeking LTC benefits. BEM 400 (April 2015), p. 6; BEM 105 (October 2014), p. 1. Checking and savings accounts are assets. BEM 400 (April 2015), p. 14. At application, a client must verify that the

value of the money in the account does not exceed the asset limit for SSI-related MA. BEM 400, pp. 1, 14, 16, 57;.

The Department explained that, in connection with processing Petitioner's April 27, 2015 MA application, it became aware that Petitioner had previously reported to the Department having a savings account ending [REDACTED] with [REDACTED]. Because it had information concerning this account in its system, the Department sent the AHR the June 1, 2015 VCL requesting, among other things, verification of the [REDACTED] checking and savings account. The evidence at the hearing established that the account at issue was the [REDACTED] savings account ending [REDACTED]. The AHR advised the Department that the [REDACTED] savings account was closed. Verification of an excluded asset is necessary to establish that the asset should be excluded. BAM 130 (July 2015), p. 1. Therefore, evidence that the account was closed was required.

Petitioner's counsel first argues that the documentation submitted to the Department by the AHR on June 30, 2015 was sufficient to verify that the account was closed. The document submitted on June 30, 2015 is a "letter of reference" dated June 17, 2015 on [REDACTED] letterhead indicating that a savings account was opened on December 14, 2007 and closed on September 15, 2011. Attached to the letter was a two-page [REDACTED] saving account statement for the period July 1, 2011 through September 30, 2011 for account ending 9957 showing a current balance of \$0. (Exhibit F.) The parties agreed that [REDACTED] and [REDACTED] are the same entity.

The Department concluded that the documentation submitted was insufficient verification that of the account closure because the letter of reference did not include the account number at issue and the attached statement for account ending [REDACTED] showed a \$0 balance but not that the account was closed. The Department worker processing Petitioner's application notified the AHR via a June 30, 2015 email that the provided documentation was not sufficient and gave the AHR until July 10, 2015 to provide verification of the account closure (Exhibit E). When the Department did not receive any further documentation, it sent her the August 6, 2015 Health Care Coverage Determination denying the application.

Counsel argues that the letter of reference showing an account closure was sufficient verification of closure of the [REDACTED] account ending [REDACTED] because, when the letter is read together with the attached June 1, 2011 to September 30, 2011 statement for the [REDACTED] savings account ending [REDACTED], the documents established that the letter of reference concerned the [REDACTED] account ending [REDACTED]. Counsel also argued that, because the Department had sought verification of a [REDACTED] savings account and a [REDACTED] checking account and it had received verification of the [REDACTED] checking account, it followed that the letter of reference concerned the [REDACTED] savings account ending [REDACTED]. However, the fact that the statement reflects a \$0 balance, not an account closure, is not sufficient to tie the statement to the letter of reference and conclusively establish that the account closure referenced in the letter is

the same account referenced in the statement. Therefore, the Department properly requested further verification.

Counsel also contended that the Department erred in denying Petitioner's application because, contrary to BAM 130, the Department failed to assist the AHR in obtaining the requested verification or to collaterally contact the bank to verify the account closure. The Department is required to assist a client in obtaining required verification if help is needed and requested. BAM 130, p. 3.

In this case, in her July 10, 2015 email response to the Department worker's email that the [REDACTED] savings account closure was inadequate verification, the AHR notified the Department that the bank advised her that a letter of account closure would have to come from corporate headquarters and would take 7 to 10 business days. She asked if the worker had any suggestions and to get back to her on what can be done about the items she was having issues with. (Exhibit H.) There is no evidence that the Department responded to the AHR's request for assistance or advised the AHR that no further extensions were available. Instead, the Department delayed further processing the application and did not notify the AHR that Petitioner's application was denied until it sent the Health Care Coverage Determination Notice on August 6, 2015. The Department's failure to respond and its delay in processing Petitioner's application until August 6, 2015, nearly a month after the AHR requested assistance, left the AHR in limbo concerning the status of Petitioner's application and aggrieved Petitioner by delaying his opportunity to file a new application. The fact that Petitioner's wife had received a letter from [REDACTED] dated June 16, 2015 confirming the [REDACTED] savings account closure that she failed to forward to the AHR does not negate the Department's responsibility to respond to the AHR's request for assistance. By failing to respond to the AHR's clear request for assistance and by delaying the processing of Petitioner's application an additional month, the Department failed to act in accordance with Department policy.

Based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, the Administrative Law Judge finds that the Department did not act in accordance with Department policy when it denied Petitioner's MA application due to failure to verify.

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. Reregister and reprocess Petitioner's April 27, 2015 MA LTC application, with request for retroactive benefits to January 2015;
2. Issue supplements to Petitioner for any MA LTC benefits Petitioner was eligible to receive but did not from January 1, 2015 ongoing; and
3. Notify Petitioner in writing of its decision.



ACE/tlf

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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

Counsel for Respondent

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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

Counsel for Complainant

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

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

CC:

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