

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

IN THE MATTER OF:



MAHS Reg. No.: 15-018717
Issue No.: 2001; 2002; 3001; 3002
Agency Case No.: [REDACTED]
Hearing Date: November 30, 2015
County: WAYNE-DISTRICT 55

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 30, 2015, from Detroit, Michigan. The Petitioner was represented by Petitioner, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistant Payment Supervisor.

ISSUES

Did the Department properly deny Petitioner's Medical Assistance (MA) application effective [REDACTED]?

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application effective [REDACTED]?

Did the Department properly deny Petitioner's Medicare Savings Programs (MSP) application effective [REDACTED]?

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 MA, MSP, and FAP benefits. See Exhibit A, p. 1.
2. On [REDACTED], the Department sent Petitioner a Health Care Coverage Supplemental Questionnaire form (DHS-1004) (supplemental questionnaire), which was due back by [REDACTED]. See Exhibit A, pp. 26-28.

3. Petitioner failed to submit the supplemental questionnaire by the due date.
4. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL), a Verification of Assets form, and a Verification of Employment, which was sent to help determine his eligibility for the FAP program, and the forms were due back by [REDACTED]. See Exhibit A, pp. 16-23. Specifically, the VCL requested verification of his wages, heat expense, vehicle ownership, and checking account. See Exhibit A, pp. 16-18.
5. Petitioner failed to submit the verifications by the due date.
6. On [REDACTED], Petitioner submitted a Verification of Assets form, which was completed by him. See Exhibit A, pp. 20-21.
7. On [REDACTED], Petitioner submitted a Verification of Employment form, which was also completed by him and appeared to indicate he was self-employed. See Exhibit A, pp. 22-23.
8. On [REDACTED], Petitioner submitted verification of his checking account. See Exhibit A, p. 24. The verification also indicated that he received Social Security income. See Exhibit A, p. 24.
9. Petitioner failed to submit verification of his vehicle ownership.
10. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP application was denied effective [REDACTED], ongoing, based on his failure to comply with the verification requirements. See Exhibit A, pp. 6-10.
11. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that his MA application was denied effective [REDACTED], due to his failure to submit verification of his supplemental questionnaire. See Exhibit A, pp. 12-15.
12. On [REDACTED], the determination notice also notified Petitioner that his MSP application was denied effective [REDACTED], due to his income exceeding the limits for the program, his failure to comply with the VCL, and his failure to submit the supplemental questionnaire form. See Exhibit A, pp. 12-15.
13. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 12-15.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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.

MA application

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2015), p. 8. This includes completion of necessary forms. BAM 105, p. 8. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130 (July 2015), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department extends the time limit up to two times. BAM 130, p. 7.

At application, redetermination, ex parte review, or other change, the Department explains to the client/authorized representative the availability of its assistance in obtaining needed information. BAM 130, p. 7. Extension may be granted when the following exists:

- 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.
- Every effort by the department was made to assist the client in obtaining verifications.

BAM 130, p. 7.

Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, pp. 7-8.

Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day. BAM 130, p. 8.

The Department sends a case action notice when: the client indicates refusal to provide verification, or the time period given has elapsed. BAM 130, p. 8 and see also Health Michigan Plan (HMP) policy, Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, *Michigan Department of Community Health* (DCH), May 2014, p. 4, available at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf.

In the present case, Petitioner first testified that he believed he submitted the supplemental questionnaire to the Department. However, Petitioner then testified that he thought he might have not received the document. Petitioner indicated that he does not have issues receiving his mail. Petitioner indicated that the address was the proper address at the time the supplemental questionnaire was generated. The Department testified that the supplemental questionnaire was sent via central print and it was not received as unreturned mail.

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Based on the foregoing information and evidence, the Department properly denied Petitioner's MA application effective [REDACTED], in accordance with Department policy.

First, it is found that Petitioner failed to rebut the presumption of proper mailing. The Department provided credible evidence and testimony that it properly sent the supplemental questionnaire to the Petitioner. See Exhibit A, pp. 26-28. Moreover, the Department did not receive any unreturned mail.

Second, the evidence established that Petitioner failed to submit the supplemental questionnaire by the due date. Because Petitioner failed to submit his verification by the due date, the Department acted in accordance with Department policy when it denied the application effective [REDACTED]. See BAM 105, p. 8; BAM 130, pp. 7-8; and MAGI Related Eligibility Manual, p. 4. Petitioner can reapply for MA benefits.

FAP application

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130, p. 6. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 6. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6. Verifications that are submitted after the close of regular business hours through the drop box or by

delivery of a MDHHS representative are considered to be received the next business day. BAM 130, p. 6. The Department sends a negative action notice when: the client indicates refusal to provide verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6.

On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL), a Verification of Assets form, and a Verification of Employment, which was sent to help determine his eligibility for the FAP program. The forms were due back by [REDACTED]. See Exhibit A, pp. 16-23. Specifically, the VCL requested verification of his wages, heat expense, vehicle ownership, and checking account. See Exhibit A, pp. 16-18. Petitioner failed to submit the verifications by the due date. On [REDACTED], Petitioner submitted a verification of assets form (completed by himself), a verification of employment form (completed by himself for self-employment), and his checking account (indicating receipt of Social Security income). See Exhibit A, pp. 20-24. Petitioner failed to submit verification of his vehicle ownership. Thus, on [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP application was denied effective [REDACTED], ongoing, based on his failure to comply with the verification requirements. See Exhibit A, pp. 6-10.

At the hearing, Petitioner testified that he did submit the verifications after the due date. Moreover, Petitioner testified that he had difficulty in obtaining the vehicle verifications for both his vehicles and that it did take time to obtain them. Petitioner testified that he eventually obtained the verifications after the due date, but never notified the Department of his difficulty in obtaining the vehicle verifications.

Based on the foregoing information and evidence, the Department properly denied Petitioner's FAP application effective [REDACTED] ongoing, in accordance with Department policy. Ultimately, Petitioner must complete the necessary forms in determining his initial eligibility. See BAM 105, p. 8. The evidence established that Petitioner failed to submit the requested verifications by the due date. Because Petitioner failed to submit his verifications before the due date, the Department acted in accordance with Department policy when it denied his FAP application effective [REDACTED]. See BAM 105, p. 8 and BAM 130, pp. 7-8.

It should be noted that the Department indicated that it could have subsequently reprocessed his application if they received verification of his vehicles. See BAM 115 (July 2015), p. 23 (FAP only subsequent processing). However, the Department indicated that it never received such verifications to reprocess his application. Assets must be considered in determining eligibility for FAP. BEM 400 (July 2015), p. 1. BEM 400 discusses in-depth FAP policy related to vehicle asset thresholds and vehicle exclusion policies. See BEM 400, pp. 36-39. Moreover, for FAP only, policy states that the Department does not require verification of a vehicle when the client claims to own only one vehicle. BEM 400, p. 57. The Department verifies only if questionable. BEM 400, p. 57. However, Petitioner notified the Department of two vehicles, thus,

verification of the vehicles would be necessary. Verification sources for vehicles includes the following:

- Title, registration or proof of insurance.
- Loan statement or payment book.
- Secretary of State (SOS) inquiry. This inquiry needs to be done only if no other verification source is available or if the client requests assistance.

Exception: This is the only acceptable verification source for unlicensed vehicles driven by tribal members on Native American reservations. The SOS clearance must be completed by a local office.

BEM 400, p. 60.

To determine the value of the vehicle, the Department can use the Kelley Blue Book option at (www.kbb.com) or NADA Book at (www.nadaguides.com)....or other methods described in BEM 400. BEM 400, p. 61.

In the present case, the Department could have determined the value of the vehicle itself if it first obtained verification of the vehicles as required per policy. Policy states that the SOS clearance needs to be done only if no other verification source is available or if the client requests assistance. However, Petitioner acknowledged that he never communicated to them that he had difficulty in obtaining the vehicle verifications. Thus, the Department had no reason to conduct an SOS inquiry because Petitioner never requested assistance. See BEM 400, p. 60. As such, because Petitioner failed to submit the vehicle verifications, the Department could not subsequently reprocess his application per BAM 115. See BAM 115, p. 23. Petitioner can reapply for benefits.

MSP application

The Medicare Savings Programs are SSI-related MA Categories. BEM 165 (January 2015), p. 1. The three Medicare Savings Programs are Qualified Medicare Beneficiaries (also known as full-coverage QMB); Specified Low-Income Medicare Beneficiaries (also referred to as limited coverage QMB and SLMB); and Additional Low-Income Medicare Beneficiaries (also known as ALMB or Q1). BEM 165, p. 1.

Full coverage QMB pays for Medicare premiums, co-insurances, and deductibles; limited QMB/SLMB pays Medicare Part B premiums; and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, p. 2. The Department of Community Health determines whether funding is available. BEM 165, p. 2.

In this case, the Department sent Petitioner a determination notice notifying him that his MSP application was denied effective June 1, 2015, due to his income exceeding the limits for the program, his failure to comply with the VCL, and his failure to submit the supplemental questionnaire form. See Exhibit A, pp. 12-15. During the hearing, the

Department did not provide any testimony or evidence as to why his income exceeded the limits for the MSP programs. Moreover, the Department appeared unclear if the supplemental questionnaire form dated [REDACTED] was applicable to MSP eligibility. Nevertheless, the undersigned finds that the Department properly denied the MSP application for the reasons stated below:

MSP eligibility includes determining whether Petitioner meets both the income and asset eligibility. See BEM 165, p. 7. The Department requested such verifications on [REDACTED]. See Exhibit A, pp. 16-23. The undersigned understands that the VCL dated [REDACTED] indicated that this form was to determine his eligibility for only the FAP program and did not mention that the VCL was also to determine his eligibility for the MSP benefits. However, the undersigned finds this to be harmless error. Ultimately, the Department would need verification of his assets and income as it is a financial eligibility factor for MSP benefits. See BEM 165, p. 7. In fact, the undersigned reviewed the supplemental questionnaire form and found that it also requested verification of his income and assets. See Exhibit A, pp. 26-28. Thus, Petitioner actually had two opportunities to submit the verifications for his MSP application. However, Petitioner failed to do so in both instances. As such, because Petitioner failed to submit his verifications by the due date, the Department acted in accordance with Department policy when it denied the MSP application effective [REDACTED]. See BAM 105, p. 8 and BAM 130, pp. 7-8. Petitioner can reapply for MSP benefits.

It should be noted that there is no subsequent reprocessing policy related to MSP programs. Thus, the undersigned will not further discuss the assets policy relating to vehicle values/exclusions for SSI-Related MA only, which MSP falls under this category. BEM 400, pp. 36-39. Petitioner never submitted the verifications for his vehicles.

DECISION AND ORDER

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 (i) the Department acted in accordance with Department policy when it denied Petitioner's MA application effective [REDACTED]; (ii) the Department acted in accordance with Department policy when it denied Petitioner's FAP application effective [REDACTED] and (iii) the Department acted in accordance with Department policy when it denied Petitioner's MSP application effective [REDACTED].

Accordingly, the Department's FAP, MA, and MSP decision is **AFFIRMED**.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/1/2015**

Date Mailed: **12/1/2015**

EF / hw

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:

