



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: July 20, 2016
MAHS Docket No.: 16-006773
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 June 28, 2016, from Lansing, Michigan. The Petitioner was represented by [REDACTED], Hearing Representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager (FIM).

During the hearing proceedings, the Department's Hearing Summary packet was admitted as marked, Exhibits 1-3, pp. 1-21. The Department also submitted a packet of additional documentation, which was admitted as Exhibit 4, pp. 22-30. The Petitioner's Hearing Request with attached documentation was admitted as Exhibit A, pp. 1-21. The Petitioner also submitted a packet of additional documentation, which was admitted as Exhibit B, pp. 1-11.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) application based on an alleged failure to return a supplemental questionnaire?

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 January 29, 2016, a MA application was filed on Petitioner's behalf. (uncontested)

2. On February 8, 2016, a Verification Checklist was issued to Petitioner's Authorized Representative (AR) for the January 29, 2016, MA application. The due date for returning the requested verifications was February 18, 2016. In part, the requested verifications included returning a completed 1004 Healthcare Supplemental Questionnaire. (Exhibit 1, pp. 1-5)
3. On February 12, 2016, the AR faxed a 13 page response to the verification checklist to the Department. In part, this included both pages of the DHS-1004 Healthcare Supplemental Questionnaire that required completion, as well as a February 12, 2016, letter from the AR to the Department. In part, this letter: listed what verifications were provided; indicated the AR believed the checklist was complete as of that date; requested the Department notify the AR if additional information was needed or if the request was misunderstood and grant an extension so that any additional information could be provided. (Exhibit A, pp. 8-20)
4. On March 8, 2016, a Health Care Coverage Determination Notice was issued stating Petitioner's MA application was denied because "We needed additional information from you to determine your eligibility for health care coverage. You failed to return the supplemental questionnaire mailed to you for this purpose." (Exhibit 3, pp. 19-21)
5. On May 16, 2016, the Department received the hearing request filed on Petitioner's behalf. (Exhibit A, pp. 1-21)

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.

In general, verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. 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, January 1, 2016, pp. 1-3.

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 when specific conditions are met. Verifications are considered timely if received by the date they are due. 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, on February 8, 2016, a Verification Checklist was issued to Petitioner's Authorized Representative (AR) for the January 29, 2016, MA application. The due date for returning the requested verifications was February 18, 2016. In part, the requested verifications included returning a completed 1004 Healthcare Supplemental Questionnaire. (Exhibit 1, pp. 1-5)

On March 8, 2016, a Health Care Coverage Determination Notice was issued stating Petitioner's MA application was denied because "We needed additional information from you to determine your eligibility for health care coverage. You failed to return the supplemental questionnaire mailed to you for this purpose." (Exhibit 3, pp. 19-21) Accordingly, this specific reason for the denial will be reviewed.

The 1004 Healthcare Supplemental Questionnaire form is a three page form, however, the first page is only information about completing the form and there is nothing for the MA applicant/recipient to complete on this page. (Exhibit 4, pp. 22-24) Accordingly, timely returning the completed second and third pages of this form would comply with a verification request.

The FIM testified that the Department received two copies of page 2 of the 1004 Healthcare Supplemental Questionnaire, which was not the complete form and did not include a signature. (FIM Testimony; Exhibit 2, pp. 11-12; Exhibit 4, pp. 25-26) However, the Department's own exhibits shows that page 2 of this form was not submitted twice. Rather, the fax transmission line shows that on February 12, 2016, a total of 13 pages was transmitted and both copies of page 2 of the 1004 Healthcare Supplemental Questionnaire in the Department's exhibits show as page "7/13" of the February 12, 2016 fax. (Exhibit 2, pp. 11-12; Exhibit 4, pp. 25-26) The Department failed to show what the other 12 pages they received were. The FIM's testimony indicated that in preparing the Hearing Summary Packet, the Department Worker would have only included the pages that were felt to be relevant. (FIM Testimony) This is troubling because it is certainly relevant to the contested issue to establish whether the other 12 pages of the fax transmission received by the Department included the rest of the 1004 Healthcare Supplemental Questionnaire.

Further, Petitioner's Exhibits document that on February 12, 2016, the AR faxed a 13 page response to the verification checklist to the Department. In part, this included both pages of the DHS-1004 Healthcare Supplemental Questionnaire that required completion as well as a February 12, 2016, letter from the AR to the Department. In part, this letter: listed what verifications were provided; indicated the AR believed the checklist was complete as of that date; requested the Department notify the AR if additional information was needed or if the request was misunderstood and grant an extension so that any additional information could be provided. (Hearing Representative Testimony; Exhibit A, pp. 8-20)

Overall, the evidence was not sufficient to establish that there was a failure to return the requested 1004 Healthcare Supplemental Questionnaire. The evidence from both parties establishes that a total of 13 pages were submitted to the Department on February 12, 2016, in response to the February 8, 2016, Verification Checklist. As discussed above, the Department's exhibits did support the assertion that page 2 of the DHS-1004 Healthcare Supplemental Questionnaire was submitted twice. (Exhibit 2, pp. 11-12; Exhibit 4, pp. 25-26) Petitioner's Exhibit A supports that those 13 pages included both the second and third pages of the completed 1004 Healthcare Supplemental Questionnaire. Additionally, in the letter with the February 12, 2016, fax, the AR requested to be notified if their belief that the verification checklist was complete was in error. This was several days prior to the February 18, 2016, due date listed on the verification checklist. Accordingly, if additional information was needed, there was still some time left before the original due date for the AR to provide this information. Further, the above cited BAM 130 policy allowing for up to two extensions of the due date could have been considered as the letter with the February 12, 2016, fax also requested an extension if the Department still needed additional information. (Exhibit A, pp. 5-20) There was no evidence indicating any prior extensions of the due date had been granted.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's MA application based on an alleged failure to return a supplemental questionnaire.

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 Petitioner's eligibility for MA for the January 29, 2016, application in accordance with Department policy, which would include allowing an opportunity to provide any additional verifications that may be needed to determine eligibility and issuing a written notice of the determination.

CL/mc



Colleen Lack
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

DHHS

[REDACTED]

Counsel for Petitioner

[REDACTED]

Petitioner

[REDACTED]