



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: September 27, 2016
MAHS Docket No.: 16-010841
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by the Petitioner's Authorized Hearing Representative (AHR), [REDACTED], of [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly deny the Petitioner's application for Medical Assistance (MA) for failure to verify income?

FINDINGS OF FACT

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

1. The Petitioner applied for MA on [REDACTED] 016.
2. A prior Hearing Decision issued on [REDACTED], regarding the Petitioner's [REDACTED], MA application was issued by Administrative Law Judge Jacqueline McClinton. The Hearing Decision ordered the Department to (1) Reregister and reprocess the Petitioner's [REDACTED], application for MA benefits, and (2) Issue supplements that Petitioner was eligible to receive but did not relating to the [REDACTED], MA application for MA benefits. Petitioner's Exhibit A.

3. The Department, pursuant to the Hearing Decision, reregistered and reprocessed the [REDACTED], application.
4. The Department issued a Verification Checklist (VCL) on [REDACTED], requesting that the Petitioner provide proof of earned and unearned income for the last 30 days employment, unemployment, Social Security benefits, pension, etc. Exhibit 2. With the VCL, the Department also provided a verification of employment addressed to [REDACTED].
5. The VCL was not sent to the Petitioner's AHR.
6. The Department issued a Health Care Coverage Determination Notice on [REDACTED] [REDACTED] denying the Petitioner's application. The Department denied the application due to failure to verify income. Exhibit 3.
7. The Department did not send the [REDACTED], Health Care Coverage Determination Notice denying the Petitioner's MA application.
8. The Petitioner's AHR, in its current hearing requests, seeks to determine whether the Department implemented the prior hearing decision as it had not received a VCL or Application Eligibility Notice. Petitioner's Exhibit A.
9. The Petitioner's AHR filed a timely hearing request on [REDACTED].

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 this case, the Petitioner's AHR requested a hearing because it had not received any communication after a Hearing Decision issued in [REDACTED] ordering the Department to reregister and reprocess the Petitioner's [REDACTED], application for MA. At all times pertinent to this matter, the Petitioner was represented by an AHR, [REDACTED]. It is clear from the evidence presented that the Department failed to properly reprocess the MA application involved in this appeal as it never provided the

AHR the [REDACTED], VCL and Verification of Employment as required by Department policy. Exhibit 2. This correspondence was only sent to the Petitioner. When an AHR is duly appointed, as is the case here, the Department is required to provide the AHR every correspondence it sends out regarding the case or application. Given the failure to provide written communications to the AHR, which included the VCL and the employment verification, the Department's denial of the Petitioner's MA application must again be reversed and reregistered and reprocessed so that the AHR is given proper notice and opportunity to represent its client.

During the instant hearing, the issue of whether the Department had conceded that no further verification of income was necessary based upon the prior Hearing Decision was raised by Petitioner's AHR. In that hearing decision, dated [REDACTED], the ALJ found that the Petitioner's AHR sent correspondence to the Department indicating that Petitioner did not have income within the 30 days preceding [REDACTED]. (ALJ McClinton Hearing Decision Finding of Fact 3.). This Finding of Fact does not conclude that the Petitioner had no income for the 30 days preceding the application, it merely recites that a letter from the AHR was sent to the Department stating same.

In the Conclusions of Law section of the Decision, the decision notes that

"The Petitioner testified that, prior to the date of the application, he last worked on [REDACTED]. On [REDACTED] Petitioner's AHR sent correspondence to the Department indicating that Petitioner did not have any employment with in the last 30 days requested an extension if further information was needed. In that correspondence Petitioner's AHR also requested that the Department assist the Petitioner in obtaining any additional information. The Department did not respond to the correspondence but instead sent the Petitioner a Health Care Coverage Determination Notice on [REDACTED] notifying him that his application for MA coverage had been denied. At the hearing the Department conceded that the correspondence from Petitioner's AHR was sufficient to allow for the processing of Petitioner's MA application."

ALJ McClinton then concluded that the Department did not act in accordance with the Department policy when it denied Petitioner's [REDACTED] application for MA benefits.

Department policy requires that income be verified at application for MA so that it can be determined whether the applicant is income eligible. BEM 500, (January 1, 2016), p. 13. At the time of the its first denial of the [REDACTED] application, the Department had correspondence from the AHR that the Petitioner had not worked in the last 30 days prior to the application date, a request for a time extension and a request for assistance by the Department should further information be required. I do not find that the prior Hearing Decision concludes that no further verification of income was necessary when the Department reprocessed the case as ordered by the [REDACTED] [REDACTED] Hearing Decision.

Department policy requires that when assistance is requested completing the application form, the local office must assist clients who request help and respond by a return letter or phone call within five workdays. BAM 115 (October 2016) p. 2. In this case the Department did not do so as it never responded the AHR's extension or request for assistance. If the group is ineligible **or** refuses to cooperate in the application process, the Department is to certify the denial within the standard of promptness. BEM 115, p. 23. Likewise, the Department was not faced with a situation where the Petitioner refused to cooperate.

The client must obtain required verification, but the local office must assist if they need and request help.

If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. BAM 130, (July 1, 2016), p. 2

Medicaid

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times. BAM 130, p. 8

Send a case action notice when:

- The client indicates refusal to provide a verification, **or**
- The time period given has elapsed.

Thus, based upon the evidence provided at the hearing, it is determined that the Department did not comply again with Department policy when it failed in reprocessing the MA application to provide the Petitioner's AHR a copy of the VCL, and Employment Verification so that any further information regarding whether the Petitioner was working in [REDACTED], the application month, could be determined.

DECISION AND ORDER

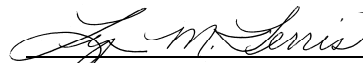
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied the Petitioner's [REDACTED] MA application for failure to verify income and for failing to provide the Petitioner's AHR with the VCL and Verification of Employment when reprocessing the Petitioner's MA application.

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. The Department shall reregister and reprocess the Petitioner's [REDACTED], MA application.
2. **The Department shall provide the Petitioner's AHR, [REDACTED] with all written correspondence and its decision regarding the Petitioner's eligibility for MA.**

LMF/jaf



Lynn M. Ferris

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 Petitioner

[REDACTED]

DHHS

[REDACTED]

Petitioner

[REDACTED]

Via email

[REDACTED]