



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: December 29, 2016
MAHS Docket No.: 16-015223
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 [REDACTED] [REDACTED] [REDACTED], from [REDACTED] Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's spouse, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist, and [REDACTED], supervisor.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) eligibility.

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 MA benefit recipient.
2. Petitioner never had nor reported a [REDACTED] account.
3. On [REDACTED], MDHHS requested verification from Petitioner of a [REDACTED] account.
4. On [REDACTED] [REDACTED] [REDACTED], MDHHS initiated termination of Petitioner's MA eligibility, effective [REDACTED] [REDACTED], due to Petitioner's failure to submit verification of a [REDACTED] account.

5. On [REDACTED] [REDACTED], Petitioner requested a hearing to dispute the MA termination.

CONCLUSIONS OF LAW

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of MA benefits. MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-4) dated [REDACTED]. The notice informed Petitioner of a termination of MA benefits, effective [REDACTED]. The stated reason for termination was a failure to verify bank information at redetermination.

Assets must be considered in determining eligibility for... SSI-related MA categories... BEM 400 (July 2016), p. 1. [MDHHS is to] verify the value of countable assets at application, redetermination and when a change is reported. *Id.*, p. 58.

It was not disputed that MDHHS mailed Petitioner a Verification Checklist (Exhibit 1, p. 4) requesting verification of a Direct Express account. A Direct Express Account is one set up solely for the purpose of direct deposit of Social Security Administration benefits. It was not disputed Petitioner failed to return verification of a [REDACTED] Account; Petitioner had good reason for not doing so.

Petitioner testified he does not have a [REDACTED] account and never had such an account. In response to Petitioner's testimony, MDHHS was asked why such verification was requested. MDHHS testimony responded it was assumed Petitioner had such an account because Petitioner submitted bank account information (not to a [REDACTED] account) in the past in response to a request for [REDACTED] information.

MDHHS did not provide justification for the previous request for a [REDACTED] account. MDHHS did not present any evidence that Petitioner ever reported to MDHHS that he had a [REDACTED] Account. MDHHS did not present any evidence that Petitioner ever had a [REDACTED] Account.

[For all programs, MDHHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (July 2016), p. 3. [MDHHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p.

6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3. [For MA benefits, MDHHS is] to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. *Id.*, p. 7.

An implied requirement of requesting verification is that the request is justified. In the present case, MDHHS provided no legitimate basis for requiring Petitioner to submit verification of an account he never had nor reported having.

It is found the MDHHS request for verification of Petitioner's non-existent [REDACTED] Account was improper. Accordingly, the corresponding MA benefit termination was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's MA eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's MA eligibility, effective [REDACTED], subject to the finding MDHHS had no basis to request verification of Petitioner's non-existent Direct Express account;
- (2) Issue a supplement of improperly unissued benefits.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki
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]
[REDACTED]
[REDACTED]

[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]