



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: May 25, 2016
MAHS Docket No.: 16-004746
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 May 24, 2016, from Lansing, Michigan. The Petitioner, [REDACTED] was represented by his son-in-law and Authorized Hearing Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Hearing Facilitator, [REDACTED].

The following exhibits were offered and admitted into evidence:

Department: A--December 9, 2015, Assistance Application.
B--December 10, 2015, Verification checklist.
C--January 6, 2016, verifications submitted by the Petitioner.
D--January 7, 2016 Health Care Coverage Determination notice.

Petitioner: 1-- Petitioner's 2015, tax return.

ISSUE

Did the Department properly deny the Petitioner's application for Medical Assistance (MA) due to his failure to submit the required verifications?

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 December 9, 2015, the Petitioner applied for MA benefits.

2. On December 10, 2015, the Department sent the Petitioner a verification checklist requesting proof of all earned and unearned income due by December 21, 2015.
3. On January 6, 2016 the Petitioner's AHR went to the local office and submitted verification of the Petitioner's income.
4. On January 7, 2016, the Department sent the Petitioner a Health Care Coverage Determination Notice informing the Petitioner that his application for MA was denied due to his failure to provide the requested verification.
5. On April 5, 2016, the Department received the Petitioner's written hearing request protesting the denial of his application for MA.

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 testified that he called the Department's caseworker several times regarding the verifications. The Petitioner's AHR indicated that he understood the Verification Checklist to be asking for the income of only the Petitioner and not also the Petitioner's wife, which is why only income verification was submitted for the Petitioner. The Department personnel at the hearing testified that the income verification submitted did not correspond with the income reported on the Assistance Application for just the Petitioner, or even the Petitioner and his wife. The Department testified that when such a discrepancy exists, the Petitioner cannot be approved for benefits so he is application was denied.

Additionally, Bridges Assistance Manual (BAM) 130 (2015) p. 3, provides that the Department worker tell the Petitioner what verification is required, how to obtain it and the due date by using either a DHS-3503 Verification Checklist. In this case, the Department did exactly that, though this Administrative Law Judge can also understand the Petitioner's AHR's testimony that he assumed that the form was only requesting the Petitioner's income verification. The Petitioners and the Petitioner's AHR primarily speak Russian.

Bridges Assistance Manual (BAM) 130 (2016) p. 7, provides that verifications are considered to be timely if received by the date they are due. It instructs Department workers to send a negative action notice when the Petitioner indicates a refusal to provide a verification, or when the time period given has elapsed and the Petitioner has not made a reasonable effort to provide it. In this case, the Petitioner provided some verification. The Department is to allow the Petitioner 10 calendar days to provide the verification requested. If the Petitioner cannot provide the verification despite a reasonable effort, the Department worker is to extend the timeline up to two times.

Extensions are granted when the Petitioner's AHR requests one, the need for the extension and reasonable efforts to obtain verifications are documented and every effort by the Department was made to assist the client in obtaining verifications. Extensions should not automatically begin. In BAM 130 p. 7.

Though the evidence did not establish whether or not one was requested, the evidence indicates an extension was given. There is no evidence in the record of the request or need for the extension or documented efforts to obtain verifications nor is there evidence of the Department's efforts to assist the Petitioner. However, that an extension was granted tends to support the Petitioner's AHR's testimony that he telephoned the caseworker several times and that he also visited the reception desk at the local office when turning in his verifications. Based on the Assistance Application in evidence and the Department's interactions, in-person and on the telephone, with the Petitioner's AHR, this Administrative Law Judge concludes that the Department was aware that English is not the Petitioner's nor the Petitioner's AHR's first language.

Lastly, the Department testified that the Petitioner's application was denied because of the discrepancy in reported and verified income and because of the lack of verification of the Petitioner's wife income. BAM 130 p. 9, instructs Department workers that, before determining eligibility, the worker should give the Petitioner a reasonable opportunity to resolve any discrepancy between his statement and information from another source. Though the Petitioner was granted one extension, he was not given another to resolve the existing discrepancy. Instead, the Department simply denied the application.

This Administrative Law Judge concludes that the Petitioner should have had a reasonable opportunity to resolve the discrepancy between his statements on the Assistance Application and the verifications that he had submitted. Furthermore, if one extension had been granted and the Department had accepted the verifications that the Petitioner did have, the Department was aware that the Petitioner was not refusing to cooperate. The Department likely should have sent the Petitioner another Verification Checklist specifically asking for income verification of his wife and information to resolve the discrepancy between his application verification submitted.

As such, the Administrative Law Judge concludes that the Department has not met its burden of establishing that it was acting in accordance with policy when taking action to deny the Petitioner's MA application for failure to submit the required verification.

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 took action to deny the Petitioner's application for MA.

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, INCLUDING MAILING A NEW ELIGIBILITY NOTICE, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine the Petitioner's eligibility for MA back to December 9, 2015, and
2. Issue the Petitioner any supplement she may thereafter be due, and
3. The Petitioner retains the right to request a hearing on the new eligibility determination.



SH/nr

Susanne E. Harris
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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]