



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: October 31, 2016
MAHS Docket No.: 16-014099
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. 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 October 27, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) application effective August 1, 2016?

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 August 6, 2016, Petitioner applied for MA benefits.
2. In the application, Petitioner reported that she had monthly rental/royalty income. Exhibit A, p. 8.
3. On September 1, 2016, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of the rental/royalty income and other verifications (which are not at issue). Exhibit A, pp. 9-10. The verifications were due back by September 12, 2016. Exhibit A, p. 9.

4. On September 12, 2016, Petitioner submitted the requested verifications, except for the rental/royalty income. Exhibit A, p. 13 (Electronic Case File).
5. Petitioner failed to submit the rental/royalty income by the due date.
6. On September 14, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that her MA application was denied effective August 1, 2016, due to her failure to provide proof of the rental/royalty income. Exhibit A, pp. 11-12.
7. On September 20, 2016, Petitioner filed a hearing request, protesting the MA denial and also included a residential lease agreement that showed proof of the rental income. See Exhibit A, pp. 2-3 and 14-22.

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.

Rental income is money an individual (landlord) receives for allowing another individual (renter) to use the landlord's property. BEM 504 (July 2014), p. 1. It includes income from a lease. BEM 504, p. 1. The Department breaks down the different type of rental incomes as follows: (i) farm land rental; (ii) in-home rental; (iii) room and board; and (iv) other rental income. BEM 504, pp. 2-3.

In the present case, Petitioner's rental income fell under the category of "other rental income." Other rental income means any rental income that is not: farm land rental, in-home rental, or room and board. BEM 504, p. 3. For example, individual rents his non-homestead house to another individual. BEM 504, p. 3.

Moreover, the Department verifies countable income at application, including a program add, prior to authorizing benefits. BEM 504, p. 4. The client has primary responsibility for obtaining verification. BEM 504, p. 5. Do not deny assistance because a boarder or other source refuses to verify income. BEM 504, p. 5. Assist the client in obtaining verification if requested. BEM 504, p. 5. Also, verification of rental income include:

written statement from the boarder/roomer; accounting or other business records; lease or contract; rent receipt book; or receipts. BEM 504, p. 5.

Because Petitioner reported that she had rental income in her application dated August 6, 2016, the Department properly requested verification of this income in accordance with Department policy. See Exhibit A, p. 8. On September 1, 2016, the Department sent Petitioner a VCL requesting proof of the rental/royalty income and other verifications (which are not at issue). Exhibit A, pp. 9-10. The verifications were due back by September 12, 2016. Exhibit A, p. 9. On September 12, 2016, Petitioner submitted the requested verifications, except for the rental/royalty income. Exhibit A, p. 13 (Electronic Case File). The Department argued that Petitioner failed to submit the rental/royalty income by the due date. As such, the Department denied her MA application based on her failure to provide proof of the rental/royalty income. Exhibit A, pp. 11-12.

In response, Petitioner makes the following arguments and/or assertions: (i) why did her caseworker not contact her, prior to denial, asking that they needed the rental income verification; (ii) she does not dispute that she failed to submit verification of the rental income by the due date and that it was an oversight; (iii) she was forthright in her application that she reported her rental income and that she had done her due diligence; (iv) on the day of the due date, Monday, September 12, 2016, she indicated that she left a voicemail for her caseworker asking him to call her back if he needed anything else, but she received no call back; and (v) she indicated that this was her second MA application that was denied again.

In response to Petitioner's claims, the Department argued the following: (i) it is not required by policy to contact Petitioner if she failed to submit all of the verifications requested in the VCL; and (ii) the Department's Hearing Summary, written by her caseworker, stated that he had no recollection of any call made on September 12, 2016. See Exhibit A, p. 1. Additionally, the undersigned Administrative Law Judge (ALJ) ask if Petitioner had any of her phone records at the hearing to show proof that she made the call on that day or if she could review her phone to see if the call history goes back to September 12, 2016; but, Petitioner did not have her phone records, nor did her call history go back to that time period.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2016), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130 (July 2016), p. 8. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times. BAM 130, p. 8.

At application, renewal, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. BAM 130, p. 8. 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. 8.

Verifications are considered to be timely if received by the date they are due. BAM 130, p. 8. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 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 send a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8. Only adequate notice is required for an application denial. BAM 130, p. 8. Timely notice is required to reduce or terminate benefits. BAM 130, p. 8.

Based on the foregoing information and evidence, the Department properly denied Petitioner's MA application effective August 1, 2016, in accordance with Department policy.

First, Petitioner acknowledged that she failed to submit verification of the rental income by the due date.

Second, MA policy does allows extensions to provide the verifications; however, there is nothing in the evidence record that shows Petitioner ever requested an extension. BAM 130, p. 8.

Third, Petitioner claimed she contacted the Department on the due date to inquiry if any more documentation was needed, but received no contact back from the Department. In response, the Department's Hearing Summary indicated that the caseworker had no recollection of any calls made on September 12, 2016. Exhibit A, p. 1. Petitioner failed to provide any documentation (i.e., phone records) and/or witnesses to corroborate her claim that she contacted the Department. As such, the undersigned does not find Petitioner's argument credible that she contacted the Department for assistance on September 12, 2016. See BAM 130, p. 3 (the client must obtain required verification,

but the local office must assist if they need and request help). Instead, the undersigned finds the Department established by a preponderance of evidence that Petitioner failed to submit the verification of her rental income by the due date. The VCL clearly requested proof of the rental income and Petitioner acknowledges that she failed to submit this required documentation. Ultimately, policy states that the Petitioner must complete the necessary forms in determining initial MA eligibility. BAM 105, p. 9. Because Petitioner failed to submit the rental income verification by the due date, the Department acted in accordance with Department policy when it denied her MA application dated August 6, 2016. BAM 105, p. 9; BAM 130, pp. 1-8; and BEM 504, pp. 1-5. Petitioner can reapply for MA benefits.

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 acted in accordance with Department policy when it denied Petitioner's MA application effective August 1, 2016.

Accordingly, the Department's decision is **AFFIRMED**.

EF/tm



Eric J. Feldman

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]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]