



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 18, 2016
MAHS Docket No.: 16-014698
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 November 15, 2016, from Lansing, Michigan. The Petitioner was represented by attorney [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Hearings Facilitator [REDACTED] [REDACTED].

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA)?

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 on-going recipient of MA.
2. On August 12, 2016, a Verification Checklist (VCL) was mailed to Petitioner's Authorized Representative (AR) [REDACTED] [REDACTED] requiring verification that accounts at the [REDACTED] ([REDACTED]) were closed (Exhibit 1 Pages 1-2), with the response due by August 22, 2016.
3. The AR provided statements showing a zero balance, but the Department did not provide those documents in its packet of exhibits for this hearing.

4. The Department sent an email on August 23, 2016, asking the AR for a statement from the [REDACTED] confirming the account was closed.
5. The AR responded via email that same day (Page 10), stating, "I will go back tomorrow and and (sic) try and get the info you are requesting. I gave them the letter you sent and that is what they gave me."
6. The AR was only able to get a statement showing the \$ [REDACTED] balance in the accounts.
7. On August 31, 2016, the Department mailed a Health Care Coverage Determination Notice (Pages 4-7).
8. On September 30, 2016, the Department received Petitioner's hearing request, protesting the closure of her 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.

BAM 130 (7/1/16), p. 3 states:

"The client must obtain required verification, but you must assist if they need and request help.

"If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment."

Per BAM 130 (7/1/16), p. 7, the Department is to:

"Send a negative action notice when:

"The client indicates refusal to provide a verification, **or**

“The time period given has elapsed and the client has **not** made a reasonable effort to provide it.”

The issue is whether the AR provided timely verification in response to the request, or made a reasonable effort to provide it.

In this case, the Department asked for verification that the accounts were closed. The AR asked the credit union for verification, and even gave the VCL to the credit union. It is beyond the AR's ability to control what the credit union provides. She made a reasonable effort to satisfy the verification requirements, and that should have been clear to the Department. They should have used the best available information, which was the statement showing the \$ [REDACTED] balance. Although the statement was not “current”, the witness agreed that it explicitly stated that it was the last statement that would be provided before the end of the year.

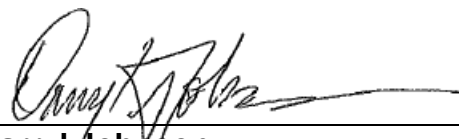
DECISION AND ORDER

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 closed Petitioner's MA.

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. Redetermine Petitioner's MA eligibility as of October 1, 2016.



Darryl Johnson
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]