



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: April 27, 2017
MAHS Docket No.: 17-002691
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 did not appear for the hearing. Petitioner was represented by her Authorized Hearing Representative (AHR), [REDACTED] and her son/guardian, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Family Independence Specialist, and [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly deny Petitioner’s application for Medical Assistance (MA) benefits based on a failure to verify requested information?

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 or around [REDACTED], Petitioner submitted an Application for Health Care Coverage Patient of Nursing Facility (DHS-4574) and a Retroactive Application requesting MA coverage for [REDACTED], [REDACTED], and [REDACTED] (Exhibit A; Exhibit B)
2. On or around [REDACTED], Petitioner also submitted an Assets Declaration Patient and Spouse (DHS-4574-B) requesting that the Department complete an Initial Asset Assessment (IAA).

3. On [REDACTED], and in connection with the application submitted, the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit proof of current bank statements, titles, and life insurance. The VCL further instructed Petitioner to submit proof of: [REDACTED] and [REDACTED] to [REDACTED] [REDACTED] bank statements for [REDACTED] bank accounts [REDACTED] and [REDACTED] and [REDACTED] bank accounts [REDACTED] and [REDACTED] [REDACTED] and [REDACTED] life insurance face value and cash surrender value for [REDACTED], [REDACTED], and [REDACTED]; vehicle verification and shelter expenses. Petitioner was to return the requested verifications by [REDACTED] (Exhibit C; Exhibit D)
4. An extension to submit the requested verifications was granted and with a new due date of [REDACTED].
5. On [REDACTED], and [REDACTED], Petitioner submitted requested verifications to the Department. (Exhibit E; Exhibit F; Exhibit G)
6. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising her that effective [REDACTED], ongoing, she was not eligible for MA on the basis that she failed to verify information necessary to determine eligibility for MA. (Exhibit H)
7. The Notice further indicates that the application was denied because Petitioner failed to provide requested verification of [REDACTED] bank account [REDACTED] and [REDACTED] insurance. (Exhibit H)
8. On [REDACTED], Petitioner requested a hearing disputing the Department's denial of the MA application.

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 Department received Petitioner's DHS-4574, DHS-4574-B, and Retroactive MA application on or around [REDACTED]. The Department stated that because Petitioner was in a long-term care facility and was married, an IAA needed to

be completed to determine how much of a couple's assets are protected for the community spouse. BEM 402 (July 2016), pp. 1-2. An IAA is used to determine the couple's total countable assets as of the first day of the first continuous period of care that began on or after [REDACTED]. BEM 402, pp.7-8. The Department testified that because [REDACTED], was the date in which Petitioner entered long term care for 30 continuous days or more, asset eligibility was required to be determined for [REDACTED] as well as the retroactive period requested, ongoing. BEM 402, pp.1-2.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2016), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. BAM 130, pp.7-8. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, pp. 7-8. Extensions may be granted when the client or authorized representative make a request, when the need for the extension and the reasonable efforts taken to obtain the verifications are documented, and every effort by the Department was made to assist the client in obtaining the verifications. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.7-8. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8.

At the hearing, the Department testified that although it timely received some of the requested verifications, because Petitioner did not provide bank statement information for the [REDACTED] account [REDACTED] or the [REDACTED] [REDACTED] information for [REDACTED], it sent Petitioner and her representative a Notice advising that the MA was denied for the retroactive period, ongoing, based on a failure to verify information necessary. The Department stated that because sufficient verification was not received, it was unable to complete the IAA which is required to determine MA eligibility.

The verifications submitted by Petitioner in response to the VCL were reviewed at the hearing. The evidence showed that on [REDACTED], Petitioner submitted a letter from [REDACTED] indicating that Petitioner did not have any accounts with [REDACTED] (Exhibit E). The Department stated that the letter was not acceptable because it conflicted with the bank account information submitted which showed an [REDACTED] withdrawal/transfer to [REDACTED] for Insurance premiums. (Exhibit G). Petitioner's AHR explained that the [REDACTED] premium paid was for vehicle insurance belonging to [REDACTED] [REDACTED] Petitioner's spouse and that the VCL only referenced submitting proof of life

insurance information from [REDACTED] so he did not provide it due to a misunderstanding. The Department should have allowed Petitioner the opportunity to resolve the discrepancy between the information in both sources prior to determining eligibility or denying the application, however. BAM 130, p. 9.

Additionally, with respect to the missing bank statement for [REDACTED] bank account [REDACTED] for [REDACTED], Petitioner's AHR stated that it was not submitted because the account was not opened until [REDACTED]. The AHR testified that Petitioner's [REDACTED] bank account 6401 was closed and the assets transferred to the new account [REDACTED] in [REDACTED]. A review of the VCL establishes, however, that the Department did not request or otherwise instruct Petitioner to submit proof of bank account information for the [REDACTED] bank account [REDACTED]. Rather, the VCL references [REDACTED] bank account [REDACTED].

Therefore, because the VCL did not reference or clearly instruct Petitioner to submit verification of the bank statement for [REDACTED] account [REDACTED] for the month of [REDACTED] [REDACTED] the Department's denial of the MA application based on a failure to submit such verification is improper.

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 Petitioner's [REDACTED] MA application and Retroactive MA application for [REDACTED], [REDACTED], and [REDACTED].

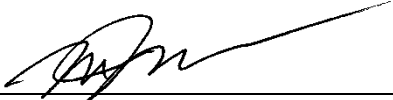
Accordingly, the Department's decision is **REVERSED**.

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. Register and process Petitioner's [REDACTED], Application for Health Care Coverage Patient of Nursing Facility (DHS-4574) and Retroactive Application requesting MA coverage for [REDACTED], [REDACTED], and [REDACTED] to determine Petitioner's MA eligibility for the retroactive period of [REDACTED], ongoing;
2. Complete the IAA in accordance with Department policy;
3. Provide Petitioner with any MA coverage that she was eligible to receive but did not from the [REDACTED], retroactive period, ongoing; and

4. Notify Petitioner and her AHR in writing of its decision.

ZB for MJB/jaf



Michael J. Bennane
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

Petitioner

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

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]

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