



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

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Date Mailed: May 30, 2019  
MOAHR Docket No.: 19-003262  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

**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; 42 CFR 438.400 to 438.424; 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 April 30, 2019, from Lansing, Michigan. The Petitioner was represented by Attorney ██████████ ██████████. The Department of Health and Human Services (Department) was represented by Assistant Attorney General, Kelly McLean. Renee Colvin, AP Supervisor, Maya Biggs, Eligibility Specialist, and Bridget Heffron appeared and testified for the Department. Department Exhibit 1, pp. 1-122 was received and admitted.

**ISSUE**

Did the Department properly deny Petitioner's Medical Assistance (MA) application due to excess assets?

**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 ██████████ ██████████ 2018, Petitioner applied for MA with a request for retroactive coverage back to July 2018.
2. A Verification Checklist was sent to Petitioner on November 8, 2018 with a due dated of November 19, 2018.
3. An extension was requested and granted on November 19, 2018.
4. A Second Extension was requested and granted on November 29, 2018.

5. A Third Extension was requested and granted on December 20, 2018.
6. Asset detection was run on January 3, 2019 after verifications were received.
7. On January 7, 2019, the application was denied, and a Health Care Coverage Determination Notice was sent to Petitioner. (Ex. 1, pp. 82-85)
8. On January 10, 2019, Petitioner's Attorney emailed the Department to let them know that Petitioner was not aware of the [REDACTED] accounts.
9. On January 22, 2019, Petitioner's Attorney emailed the Department asserting that the [REDACTED] accounts did not belong to Petitioner.
10. On January 30, 2019, Petitioner's Attorney submitted an affidavit in support of the contention that the [REDACTED] account was not Petitioner's account.
11. On [REDACTED] [REDACTED] 2019, Petitioner reapplied for MA benefits.
12. On March 29, 2019, Petitioner requested hearing disputing the denial of MA benefits.

### **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.

#### **Medicaid**

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times.

At renewal if an individual is required to return a pre-populated renewal form, allow 30 calendar days for the form to be returned.

At application, renewal, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. 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. Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. 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.

Send a case action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed.

Only adequate notice is required for an application denial. Timely notice is required to reduce or terminate benefits. BAM 130(April 2017)

## **Responsibility to Cooperate**

### **All Programs**

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item.

Clients must completely and truthfully answer all questions on forms and in interviews. The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information.

### **MA Only**

Refusal to provide necessary eligibility information or to cooperate with a QC review results in ineligibility for:

- The person about whom information is refused, and
- That person's spouse if living in the home, and
- That person's unmarried children under 18 living in the home. BAM 105 (January 2019)

## **APPLICATION AFTER DENIAL/ TERMINATION**

### **All Programs**

The following applies when an application is denied or eligibility is terminated before the month of a scheduled redetermination or end date:

- The application on file remains valid through the last day of the month after the month of the denial or termination. To reapply during this time, the client/AR must do all of the following:

Update the information on the existing application.

Initial and date each page next to the page number to show that it was reviewed.

Re-sign and re-date the application on the signature page. This becomes the new application date.

Comply with all application requirements.

- If eligibility exists, the updated application is valid until the redetermination or end date. BAM 115

## **REINSTATEMENT REASONS**

### **All Programs**

Reinstatement restores a closed program to active status without completion of a new application. Closed programs may be rein-stated for any of the following reasons:

- Closed in error.
- Closed-correct information not entered.
- Timely hearing request.
- Redetermination packet not logged in.
- Hearing decision ordered reinstatement.
- Complied with program requirements before negative action date.
- DHS-1046 manually sent and due date is after the last day of the 6th month.
- Court ordered reinstatement.
- MAGI Medicaid eligible for passive renewal may be reinstated if the beneficiary requests health care coverage within 90 days of the closure. BAM 205

## **Helping Clients**

### **All Programs**

The local office must assist clients who need and request help to complete the application form.

The time limit to respond to requests for help completing the application form depends on the circumstance:

- For clients in the local office, respond within one workday.
- For clients who send a letter, respond by a return letter or phone call within five workdays.
- For clients who telephone, respond by either of the following:

Return phone call within one workday.

Send letter within five workdays.

When help cannot be provided by phone call or letter within specified time frames, complete a home call within five workdays.

The local office must have designated staff to make home calls to help complete applications in all of the following:

- Sufficient help cannot be provided by telephone or letter.
- The client is physically unable to come to the office.
- The client has no one else to help or to come to the office on his/her behalf.

**Note:** The cover page of Michigan Department of Health & Human Services (MDHHS) application forms advises clients of their right to receive help and includes the phone number of the MDHHS Customer Service Unit 855-275-6424 to report a refusal of help. BAM 115

## **Obtaining Verification**

### **All Programs**

Tell the client what verification is required, how to obtain it, and the due date; see **Timeliness of Verifications** in this item. Use the DHS-3503, Verification Checklist (VCL), to request verification.

**Exception:** For Food Assistance Program (FAP) only, if there is a system-generated due date on the verification form such as a DHS-3688, Shelter Verification, a verification checklist is not required to be sent with the verification form.

Use the DHS-3503C, Verification Checklist for Citizenship/Identity, to request documentation of citizenship or identity for FIP, SDA or MA determinations.

The client must obtain required verification, but the local office must assist if they need and request help. BAM 130

For all other SSI-related MA categories, the asset limit is:

- \$2,000 for an asset group of one.
- \$3,000 for an asset group of two. BEM 400

In this case, Petitioner applied for MA on [REDACTED] [REDACTED] 2018, with a request for retroactive coverage back to July 2018. A verification checklist was sent to Petitioner on November 8, 2018 with a November 19, 2018 due date. An extension was requested and granted on November 19, 2018 with a November 29, 2018 due date. A second extension was granted on November 29, 2018, with a December 10, 2018 due date. A third extension was granted on December 20, 2018 with a January 2, 2019 due date. After verifications were received, asset detection was run on January 3, 2019. On January 7, 2019, the application was denied for excess assets after asset detection showed that Petitioner had four bank accounts with [REDACTED] that were not disclosed that put Petitioner over the asset limit. (Ex. 1, pp. 82-85)

Petitioner's Attorney asserted that Petitioner did not have an ownership interest in the [REDACTED] accounts and provided affidavits in support of that position after the denial was processed.(Ex. 1, p.94) Petitioner's Attorney asserted that the [REDACTED] accounts belonged to Petitioner's son and Petitioner's name was placed on the accounts so that Petitioner could deposit monies in the account for the benefit of her son. Petitioner's Attorney asserted that Petitioner had not made any deposits or withdrawals in the accounts, that she had a zero percent interest in the accounts, and that their accounts should not be considered an asset for Petitioner.

The Department asserted Petitioner was given several opportunities to provide all necessary information before the application was processed including the maximum number of extensions. After all the verifications were submitted on January 3, 2019, the Department processed the application which included running asset detection and discovered [REDACTED] accounts that had Petitioner's name on the accounts. At the time eligibility was processed on January 7, 2019, the information the Department received showed Petitioner's name on the [REDACTED] accounts and the accounts had assets in them that put Petitioner over the asset limit. BEM 400 (October 2018) The Department had no proof at that time that Petitioner did not have an ownership interest in the [REDACTED] accounts. The Department correctly pointed out that the onus is on the applicant to provide proof of asset eligibility. At the time the application was processed, and eligibility was determined on January 7, 2019, the Department used all the information it had and made a determination based on that information. Therefore, the denial due to excess assets was proper and correct. BEM 400

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 October 26, 2018, MA application due excess assets.

### **DECISION AND ORDER**

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

AM/nr



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Aaron McClintic  
Administrative Law Judge  
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR 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**

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