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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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████████████████████, MI ██████████

Date Mailed: May 30, 2019
MOAHR Docket No.: 19-003263
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's Exhibit 1, pp. 1-282 was received and admitted. Petitioner Exhibit A, pp. 1-2 was received and admitted.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) application for failing to provide 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 ██████████ ██████████ 2019, Petitioner applied for MA benefits with a request for retroactive coverage back to October 2018.
2. A Verification Checklist was sent to Petitioner on February 14, 2019 with a February 25, 2019 due date.
3. Department worker Maya Biggs sent Petitioner's Attorney an email on February 14, 2019, that reads as follows "Please provide proof of pension and social security income, and expenses for 2019." (Ex. 1, p.124)

4. On February 15, 2019, Department worker Maya Biggs sent an email to Petitioner's Attorney that reads as follows I sent a VCL asked for additional items. "Please provide proof of pension and social security income as of 2019. Include [REDACTED] proofs for accounts ending [REDACTED] [REDACTED] & [REDACTED] for October through January 2019. Please submit [REDACTED] account ending [REDACTED] for January 2019. Provide ALL other assets, income and expenses that you may have. The VCL is due 2/25/2019." (Ex. 1, p. 177)
5. Petitioner's Attorney submitted an affidavit dated January 30, 2019, regarding [REDACTED] bank accounts (Ex.1, p.31).
6. Petitioner's Attorney sent numerous emails from February 15, 2019 and March 11, 2019 requesting assistance from the Department in obtaining verifications.
7. On March 11, 2019, the Department received proof that the [REDACTED] accounts were closed. (Ex. 1, pp. 148-152)
8. On March 15, 2019, A Health Care Coverage Determination Notice was issued informing Petitioner that her application was denied because verification of assets was not returned. (Ex.1, pp. 155-157)
9. On March 21, 2019, Petitioner's Attorney provided proof of pension. (Ex. 1, pp. 158-162)
10. On March 28, 2019, Petitioner's Attorney provided bank statements for the [REDACTED] [REDACTED] accounts. (Ex. 1, pp. 182-233)
11. On March 29, 2019, Petitioner's Attorney requested hearing contesting the denial of 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.

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 (January 2019)

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 (January 2018)

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 (April 2017)

In this case, Petitioner applied for MA on [REDACTED] [REDACTED] 2019 with a request for retroactive coverage back to October 2018. A verification checklist was sent to Petitioner with a February 25, 2019 due date. Petitioner submitted affidavits dated January 30, 2019, purporting to verify that Petitioner did not have an ownership interest in the [REDACTED] [REDACTED] accounts. The Department forwarded the affidavit to the Policy unit. The Policy unit determined that the affidavit was not sufficient verification. (Ex.1, p.153) On March 11, 2019, Petitioner submitted proof that [REDACTED] [REDACTED] accounts were closed but did not provide statements for the months in question.

On March 15, 2019, a Health Care Coverage Determination Notice was sent to Petitioner informing her that she was not eligible for MA because verification of assets was not returned for [REDACTED] [REDACTED] (Ex. 1, pp. 155-157)

On March 20, 2019, Petitioner's Attorney provided proof of pension. (Ex.1, pp. 158-162)
On March 28, 2019, Petitioner's Attorney provided [REDACTED] bank statements for the months in question.

Issues were raised by Petitioner's Attorney that the Department did not provide help obtaining asset verifications as required by Department policy BAM 115. Additional issues were raised by Petitioner's Attorney that that extensions were not given under BAM 130 prior to the denial being processed and without Petitioner being given an opportunity to verify assets and income. Petitioner's Attorney in his request for hearing cited BAM 115 and BAM 205 in an effort to reinstate the October 2018 application, those provisions do not apply to applications.

BAM 130 outlines Department policy for extensions, up to 3 extensions are permitted but are not required to be given. A basis for extensions must be evaluated.

The Department's position was that Petitioner was given an opportunity to provide all required verifications but when the application was processed on March 15, 2019, all required verifications had not been provided, specifically proof of pension and bank statements, and denied the application on that basis. The Department asserted that extensions were discretionary under BAM 130 and that there was no basis for another extension.

With regard to Petitioner's request for assistance from the Department under BAM 115, Petitioner and her Attorney had access to Petitioner's bank account and pension documents as evidenced by their eventual submission of those documents. The Department did not have access to those documents, and it is unclear what assistance Petitioner was requesting from the Department. The undersigned Administrative Law Judge does not find that the Department failed to comply with the provisions in BAM 115 that related to providing help.

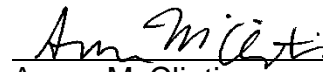
With regard to the Department processing Petitioner's application without giving further extensions, the Department has discretion in granting extensions. The Department did not abuse its discretion in not allowing further extensions. Petitioner had ample time and opportunity to provide the required verifications prior to the application being processed on March 15, 2019. Therefore, the denial for failing to provide verifications was proper and correct. BAM 130

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 January 31, 2019 application for MA for failing to provide verifications.

DECISION AND ORDER

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

AM/nr



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

Christine Steen
3040 West Grand Blvd
Suite 4-250
Detroit, MI
48202

Wayne 82 County DHHS- via electronic
mail

BSC4- via electronic mail

D. Smith- via electronic mail

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