



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

Date Mailed: October 25, 2017  
MAHS Docket No.: 17-012524  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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 October 23, 2017, from Detroit, Michigan. Petitioner was not present. Petitioner's representative, [REDACTED] was present. The Department of Health and Human Services (Department) was represented by Mark Logan, Family Independence Manager, and Kerri Scott, Eligibility Specialist.

**ISSUE**

Did the Department properly impose a divestment penalty pursuant to Petitioner's Medical Assistance (MA) benefit case?

**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 [REDACTED], 2017, Petitioner applied for MA benefits. Petitioner requested retroactive MA benefits back through April 2017.
2. On June 21, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting bank statements and proof of any withdrawals or checks issued in excess of \$500 for the months of March 2017 through June 2017 (Exhibit A).
3. On July 3, 2017, the Department verbally notified Petitioner's representative of the transactions that required proofs. The Department sent a follow-up email of the proofs that were required (Exhibit C).

4. On July 25, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was approved for MA coverage effective April 1, 2017, ongoing. Petitioner was also notified she was subject to divestment penalty for the month of April 2017, for the failure to submit all required verifications.
5. On August 15, 2017, Petitioner's representative submitted a request for hearing disputing the Department's decision to subject Petitioner to a divestment penalty for April 2017.

### **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, Petitioner submitted an application for MA benefits on [REDACTED], 2017. Petitioner requested retroactive coverage back through April 2017. The Department sent Petitioner a VCL on June 21, 2017, requesting verification of Petitioner's checking account. The Department requested statements from Petitioner's checking account for April, May and June 2017. The Department also requested that Petitioner provide proof of any transactions that occurred in those months in excess of \$500. The proofs were due by July 3, 2017.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), 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. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit up to two times. BAM 130. Verifications are considered to be timely if received by the date they are due. BAM 130. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130. 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. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed. BAM 130.

On July 3, 2017, the Department spoke with Petitioner's representative and informed her that she needed to submit proof as to the nature of the transactions that were in excess of \$500. Additionally, the Department sent Petitioner's representative an email with all of the transactions that needed to be verified. Petitioner's representative did not indicate that she would have any issues with obtaining the necessary verifications.

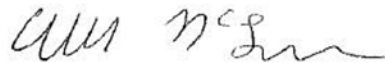
On July 25, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her MA benefits were approved effective April 1, 2017, ongoing. Petitioner was also advised that she would be subject to a divestment penalty for the month of April 2017, for her failure to submit proof of the transactions in excess of \$500. Petitioner's representative confirmed she did not submit the verifications prior to the date the Health Care Coverage Determination Notice was sent.

The Department properly concluded that neither Petitioner, nor Petitioner's representative timely submitted the necessary verifications. Therefore, the Department correctly sent the negative action notice on July 25, 2017, subjecting Petitioner to a divestment penalty for April 2017.

### **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 imposed a divestment penalty pursuant to Petitioner's MA case.

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



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**Ellen McLemore**  
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**

MDHHS-Kent-Hearings

**Authorized Hearing Rep.**

[REDACTED]

**Petitioner**

[REDACTED]

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EQAD  
E McLemore  
MAHS