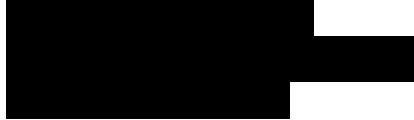




RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON  
DIRECTOR



Date Mailed: November 28, 2017  
MAHS Docket No.: 17-012919  
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 November 15, 2017, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Dionere Craft, Hearing Facilitator.

### **ISSUE**

1. Did the Department properly deny Petitioner's application for State Emergency Relief (SER)?
2. Did the Department properly close 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. Petitioner was an ongoing MA benefit recipient.
2. On June 12, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of his income from the past 30 days (Exhibit F).
3. On [REDACTED], 2017, Petitioner submitted an application for SER benefits for utility services.

4. On June 23, 2017, the Department sent Petitioner a State Emergency Relief Decision Notice informing him that his application for SER benefits was denied.
5. On June 23, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his MA benefit case was closing effective August 1, 2017, ongoing, for his failure to submit verification of income.
6. On September 21, 2017, Petitioner submitted a request for hearing disputing the Department's actions regarding his MA benefits and SER 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).

#### **MA**

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 had previously submitted verification of an annuity that he held (Exhibit C). As a result, the Department sent Petitioner a verification checklist on June 12, 2017, requesting verification of his income. The VCL was related to Petitioner's MA benefit case. The proofs were due June 22, 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 (April 2017), p. 7. For MA cases, if the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department presented Petitioner's electronic case file (ECF). The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF contains all forms, documents and other evidence to the group's current and past eligibility. BAM 300, p. 1. The ECF revealed Petitioner did not submit verification of income prior to June 22, 2017. As a result, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his MA benefit case was closing effective August 1, 2017.

Petitioner testified the annuity contained \$180 and he was unable to draw on the account until he turned 62 years old. Petitioner stated he has not received funds from the annuity in several years. The Department presented a statement from the annuity that was submitted by the Petitioner (Exhibit C).

The Department requires income to be verified at (i) application; (ii) when a member is added to a group (iii) at redetermination; and (iv) when program policy requires a change be budgeted. BEM 500 (January 2016). The Department believed Petitioner was receiving income from the annuity and requested verification of the wages. However, the statement from the annuity clearly indicates there were no withdrawals between January 1, 2017, and March 31, 2017, corroborating Petitioner's testimony. Petitioner credibly testified that he does not have income. Therefore, the Department failed to establish that it properly followed policy when it closed Petitioner's MA benefit case for his failure to verify income.

## SER

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, Petitioner submitted a request for SER benefits on [REDACTED], 2017, for water utility services. In the application, Petitioner indicated he was requesting \$444.25 for his water utility. Petitioner stated he had no assets or income. The Department sent Petitioner a State Emergency Relief Decision Notice informing Petitioner his request for SER benefits was denied because his copayment exceeded the amount needed to resolve the emergency.

SER helps to restore or prevent shut off of a utility service specified in this item when service is necessary to prevent serious harm to SER group members. ERM 302 (October 2013), p. 1. The Department will provide payment of an arrearage to maintain or restore services for utilities including water. ERM 302, p. 1. SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (February 2017), p. 1. The total copayment is the amount the SER group must pay toward their emergency. ERM 208, p. 2. Copayment amounts are deducted

from the cost of resolving the emergency. ERM 208, p. 2. In most cases, cash assets in excess of \$50 result in an asset copayment. ERM 208, p. 1. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. This is the income copayment. ERM 208, p. 1. The income and asset copayments combined together determine the SER group's total copayment. ERM 208, p. 2. ERM 208, p. 1. When processing an application, if the copayment, shortfall, contribution or combination exceeds the need, the application shall be denied. ERM 103 (February 2017), p. 4.

The Department testified Petitioner had assets totaling \$573.56. The Department stated Petitioner had previously submitted verification of an annuity that totaled \$180.51 (Exhibit C). The Department also stated Petitioner had reported in 2013 that he had stocks and bonds that were worth \$391. The Department totaled the assets and deducted \$50, as only assets in excess of \$50 are considered. The Department determined Petitioner's copayment was \$523. As Petitioner's copayment exceeded the amount needed to resolve the emergency, his application for SER benefits was denied.

Petitioner testified that he does not have any assets in the form of stocks or bonds and that the money in the annuity is not available to him until he is 62 years old. The Department could not provide testimony as to where or when it received information that Petitioner had assets in the forms of stock and bonds. In the absence of such evidence, the Department failed to establish Petitioner had assets in the form of stocks and bonds. Additionally, when determining SER eligibility, the Department only counts available assets. ERM 205, p. 1. Therefore, the Department failed to establish that Petitioner had assets in an amount that exceeded the need.

### **DECISION AND ORDER**

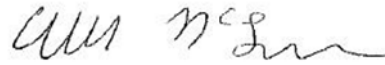
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SER application and closed his MA benefit case.

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. Reregister and reprocess Petitioner's SER application;
2. If Petitioner is eligible for SER benefits, issue supplements Petitioner was eligible to receive but did not as a result of the application denial; and

3. Redetermine Petitioner's MA eligibility as of August 1, 2017, ongoing;
4. Provide Petitioner with MA coverage he is eligible to receive as of August 1, 2017, ongoing; and
5. Notify Petitioner of its MA and SER application in writing.



EM/

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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-Wayne-55-Hearings

**Petitioner**



BSC4  
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