STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

RICK SNYDER
GOVERNOR

SHELLY EDGERTON
DIRECTOR

[redacted], MI [redacted]

Date Mailed: July 10, 2018
MAHS Docket No.: 18-004064
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 June 28, 2018, from Lansing, Michigan. Petitioner was represented by his spouse, [redacted] and [redacted], Regional Director of Accounts receivable with the Olympia Group Nursing Home. The Department of Health and Human Services (Department) was represented by Franklin Cabello, Eligibility Specialist; and Lakeita Cochran, Assistance Payments Supervisor.

ISSUE

Did the Department properly deny Petitioner's application for Long Term Care Medical Assistance (MA-LTC)?

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], 2018, Petitioner applied for Medical Assistance and Retroactive Medical Assistance.

2. Petitioner is married, and per policy an initial asset assessment must be completed.

3. An initial asset assessment means determining the couple's total countable assets as of the first continuous period of care.

4. The Continuous Period of Care is a period of at least 30 consecutive days for the client is in the hospital or long-term care facility.

5. Petitioner's first Continuous Period of Care is November 16, 2015.

6. When determining a protected spousal amount the Department will have to verify the total, but assets as of the initial asset assessment date in the application month.

7. A verification checklist was sent the January 17, 2018, January 29, 2018, and February 8, 2018.

8. The requested verification of assets of was not returned.

9. The case was denied for failure to provide verification information on February 21, 2018.

10. On February 21, 2018, the Department sent Petitioner a Health Care coverage determination notice indicating that Petitioner failed to provide Life Insurance face value or cash surrender value for November of 2015, and January of 2018.

11. If on April 23, 2018, the Department received a request for hearing to contest the negative action.

12. On May 8, 2018 a Pre-Hearing conference was held.

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.

Pertinent Department policy dictates:
All Programs Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.

- Required as a local office option. The requirement must be applied the same for every client. Local requirements may not be imposed for Medicaid Assistance (MA).

- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. (Bridges Administrative Manual (BAM) 130, page 1)

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. (BEM 130, page 8)

In this case, the evidence establishes that the Life Insurance Information was not received by the Department as requested. Petitioner has not established good cause for failure to return the information to the Department. The Department's case is established by a preponderance of the evidence presented. The Department witness did testify that he assisted Petitioner as much as possible. Petitioner's Medicaid case was opened effective January 1, 2018, after receipt of the documentation.

A preponderance of evidence is evidence which is of a greater weight or more convincing than evidence offered in opposition to it. It is simply that evidence which

outweighs the evidence offered to oppose it *Martucci v Detroit Commissioner of Police*, 322 Mich 270; 33 NW2d 789 (1948).

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 has established by the necessary competent, material and substantial evidence on the record that it acted in accordance with Department policy when it denied Petitioner's Medical Assistance Program when Petitioner failed to provide requested determination documentation.

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

LL/bb

Landis Lain
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) 763-0155; 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

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

Wayne County (District 82), DHHS

BSC4 via electronic mail

L. Karadsheh via electronic mail

Authorized Hearing Rep.

[redacted], MI [redacted]

Petitioner

[redacted], MI [redacted]