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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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Date Mailed: March 17, 2021
MOAHR Docket No.: 20-008257
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was conducted via telephone conference line on March 11, 2021. Petitioner participated and was unrepresented. ██████████ testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Ronetta Dalton, supervisor.

ISSUE

The issue is whether MDHHS properly denied Medical Assistance (MA) to Petitioner.

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 some unspecified date before October 2020, Petitioner had a checking and savings account at ██████████ (hereinafter, “Bank1”).
2. On ██████████, 2020, Petitioner applied for MA benefits and reported disability and receipt of Medicare.
3. On October 21, 2020, Petitioner reported to MDHHS having a savings account with ██████████ (hereinafter, “Bank2”) and submitted to MDHHS a statement from Bank2.
4. On October 22, 2020, MDHHS mailed Petitioner a Verification Checklist requesting proof of an unspecified savings and checking account.

5. On December 9, 2020, MDHHS denied Petitioner's application requesting MA benefits due to Petitioner's alleged failure to verify assets.
6. On [REDACTED], 2020, Petitioner requested a hearing to dispute the denial of MA benefits.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute the denial of an application requesting MA benefits. Exhibit A, pp. 6-7. A Health Care Coverage Determination Notice dated December 9, 2020, stated that Petitioner was denied MA due to a failure to verify a checking and savings account. Exhibit A, pp. 3-5.

The Medicaid program includes several sub-programs or categories. BEM 105 (April 2017), p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

MAGI categories do not require proof of assets. BEM 400 (January 2020) p. 3. MDHHS is to consider assets at application when determining MA eligibility for SSI-Related categories. *Id.*, p. 61. Petitioner's application dated October 14, 2020, reported disability, no minor children, and receipt of Medicare. Exhibit A, pp. 8-11. Petitioner's reporting is consistent with MA eligibility only for SSI-Related MA categories; therefore, Petitioner was required to verify assets.

On a Health Care Coverage Supplemental Questionnaire dated October 21, 2020, Petitioner reported to MDHHS that she had a checking account with Bank2. Exhibit A, pp. 12-15. It was not disputed that Petitioner submitted a statement from Bank2 to MDHHS on the same date. Exhibit A, p. 19. MDHHS contended that Petitioner's failure was not verifying her accounts with Bank1.¹

¹ During the hearing, MDHHS acknowledged that it possessed verification of a closed savings account with Bank1. MDHHS contended that verification of a checking account from Bank1 was still needed.

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* For Medicaid, MDHHS is to allow the client 10 calendar days to provide the verification that is requested. *Id.*, p. 8. MDHHS may send a negative action notice when:

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

MDHHS credibly testified that its database listed current accounts at Bank1 for Petitioner as of the unspecified last time that Petitioner received benefits.² MDHHS also credibly testified that Petitioner was sent a VCL on October 22, 2020, requesting proof of checking and savings accounts. It was not disputed that Petitioner did not return to MDHHS verification of a savings or checking account for Bank1 before a denial notice was sent on December 9, 2020. Thus, MDHHS contended that MA denial was proper.

Petitioner responded that she only had an account with Bank2 at the time of her application and has not had an account at Bank1 for several years. Petitioner also testified that she did not realize that MDHHS requested verification of accounts with Bank1. Notably, MDHHS acknowledged that the VCL sent to Petitioner did not specify that statements from Bank1 were needed. Without specifically requesting statements for Bank1, Petitioner could not reasonably be expected to know that statements from closed accounts had to be verified.

Given the evidence, MDHHS failed to properly request verification of Petitioner's assets by not specifying a request for a statement from Bank1 on a VCL. Thus, the denial of Petitioner's MA application due to a failure to verify assets was improper.

² It is questionable whether MDHHS needs to verify the closure of accounts only because the accounts were current the last time the client received benefits. For purposes of this decision, it will be accepted that MDHHS may require verification of such accounts.


DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for MA benefits. MDHHS is ordered to commence the following actions within 10 days of the date of mailing of this decision:

- (1) Re-register Petitioner's application dated [REDACTED] 2020 requesting MA benefits; and
- (2) Process Petitioner's application subject to the finding that MDHHS failed to inform Petitioner on a VCL that verification from Bank1 was required.

The actions taken by MDHHS are **REVERSED**.

CG/tm



Christian Gardocki
Administrative Law Judge
for Elizabeth Hertel, 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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Wayne-18-Hearings
C. George
EQADHearings
BSC4
MOAHR

**Petitioner –
Via First-Class Mail:**

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