



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: October 18, 2023
MOAHR Docket No.: 23-004690
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 September 19, 2023, from Lansing, Michigan. The Petitioner was represented by Attorney Bridget Cunningham. The Department of Health and Human Services (Department) was represented by Brian Kennedy Hearing Facilitator. Adam Kresmery Eligibility Specialist also appeared and testified for the Department. Department Exhibit A, pp. 1-32 was received and admitted. Petitioner's Exhibit 1 pp. 1-88 was received and admitted.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) application for failing to verify assets?

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] 2022, Petitioner was admitted to the Orchards of Roseville nursing home.
2. On June 23, 2022, ATS Guardianship Services was appointed as Petitioner's guardian by the Oakland County Probate Court.

3. On March 31, 2023, Petitioner applied for Medical Assistance with a request for retroactive coverage.
4. On April 4, 2023, a Verification Checklist was sent to Petitioner requesting verifications of income and assets.
5. On April 11, 2023, Petitioner's attorney requested an extension to the deadline for asset verifications.
6. On April 14, 2023, Petitioner's attorney requested bank account information from Chase Bank.
7. An extension was granted until April 21, 2023.
8. On April 21, 2023, Petitioner's attorney Bridget Cunningham requested another extension.
9. On May 11, 2023, Petitioner's attorney submitted a letter and documents outlining Petitioner's position. No verifications for Petitioner's Chase bank account were submitted.
10. On May 12, 2023, a Health Care Coverage Determination Notice was sent to Petitioner informing her that her MA application was denied for failing to verify information necessary to determine eligibility.
11. On August 10, 2023, Petitioner requested hearing disputing the denial of MA.
12. Petitioner's attorney filed a Petition to Modify Guardianship in Oakland County Probate Court and that Petition was pending at the time of hearing.

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.

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 MDHHS-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. If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment. BAM 130.

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.

Verification Requirements

G2U, G2C, RMA and SSI-Related MA Only

Verify the value of countable assets at application, redetermination and when a change is reported. BEM 400.

In this case, Petitioner requested assistance from the Department in obtaining bank account verifications. Petitioner argued that the Department was required to assist in obtaining bank account verifications and was capable of providing that assistance but failed to do so.

Petitioner argued that Petitioner made reasonable efforts to obtain verifications and that a determination should have been made based on the best information available. Petitioner asserted that the best information available was that Petitioner was under the asset limit.

Petitioner argued that reasonable accommodations were not given to Petitioner under the Americans with Disabilities Act (ADA), 42 U.S.C. Chapter 126. Petitioner argued that Petitioner should have been given additional time to obtain asset verifications because she was unable to obtain the verifications due to her disability and the failure of her guardian to cooperate and assist in obtaining asset verifications.

Petitioner argued that the Health Care Coverage Determination Notice sent to Petitioner on May 12, 2023, was inadequate because it failed to state the specific facts that support the denial.

The Department argued that Petitioner was given ample opportunity to provide the asset verifications that are required in making an eligibility determination and Petitioner failed to provide the verifications prior to the extended deadlines. The Department's position is that at some point they need to make a determination and at the time they made the determination on this application on May 12, 2023, no information had been received regarding Petitioner's Chase bank accounts and therefore a denial was required. BAM 130, BEM 400. The Department argued that reasonable accommodations were afforded Petitioner in the form of extensions to the asset verification requests. The Department argued that the best information available was not that Petitioner was asset eligible and in fact, no information was provided to show Petitioner was asset eligible. The Department argued that the denial notice provide to Petitioner was adequate.

Applicants for MA have a burden to establish that they are asset eligible. On April 4, 2023, the Department requested asset verifications from the Petitioner. Petitioner is entitled to extensions on the deadlines for establishing asset eligibility. The Department granted Petitioner extensions but those extensions have limitations because the Department is required to process and make eligibility determinations within a specified timeline. Following the extensions afforded to Petitioner, the Department made an eligibility determination on May 12, 2023, based on the information that had been provided to them. No information had been provided to them regarding Petitioner's Chase bank account. BAM 130 requires that the Department send a notice of case action when "the time period given has elapsed". Petitioner failed to provide verifications for her Chase bank account to establish that she was under the asset limit and eligible for MA. Petitioner requested assistance in obtaining verifications for her Chase bank account but it is unclear what specific assistance was requested and how the


Department would have been able to obtain the verifications without authorization from the Petitioner to do so. Petitioner's argument that the denial notice was inadequate because it did not provide specific facts regarding the basis for the denial is unpersuasive. Petitioner was aware of the reason for the denial as evidenced by the arguments she presented at hearing. The undersigned Administrative Law Judge does not have jurisdiction to address Petitioner's potential claims under the ADA.

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 MA application for failing to verify information necessary to determine eligibility, specifically her Chase bank account. BAM 130, BEM 400.

DECISION AND ORDER

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

AM/ml



Aaron McClintic
Administrative Law Judge

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 Electronic Mail:

DHHS
Vivian Worden
Macomb County DHHS Mt. Clemens Dist.
44777 Gratiot
Clinton Township, MI 48036
MDHHS-Macomb-12-Hearings@michigan.gov

Interested Parties
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EQAD
MOAHR

Via First Class Mail:

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Petitioner

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