



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 23, 2018
MAHS Docket No.: 18-001949
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 4/19/18, from [REDACTED] Michigan. The Petitioner represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED] ES Worker.

ISSUE

Did the Department properly close Petitioner's MA 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 1/31/18 the Department issued a Health Care Coverage Determination Notice informing Petitioner and his spouse that effective 3/1/18 are no longer eligible for MA on the grounds that annual income of \$ [REDACTED] exceeds the income limit for Health Care Coverage.
2. Petitioner testified that he owned 5 homes and had rental income but had provided verification to the Department that he sold the homes.
3. Petitioner denied that he had any income.
4. On 2/16/18 Petitioner filed a hearing request.

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's worker was not available for the administrative hearing and was not subject to testimony and/or cross-examination. The evidentiary file prepared in this case by that worker did not contain any evidence at all to support the action taken by the Department.

Petitioner subsequently reapplied on 2/27/18. The evidentiary packet contains some information on the reapplication, not relevant herein to the negative action at issue.

At the same time, the Department witness had no knowledge or information regarding Petitioner's eligibility and/or income purportedly used to determine that Petitioner had \$ [REDACTED] plus in income. In addition, evidence indicates bank 2 statements totaling close to \$ [REDACTED]. It is unclear how these assets, and/or which month such may have been considered income, was calculated by the Department.

As the record established in this matter is insufficient to support the action taken, the Department must be reversed. However, the record is also insufficient in this matter to reinstate MA, based both on the Department's exhibits as well as Petitioner's testimony. Thus, the Department is ordered to reprocess Petitioner's MA eligibility.

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 did not meet its burden of going forward. As such, the action cannot be upheld, and the Department is ordered to reprocess Petitioner's eligibility for MA.

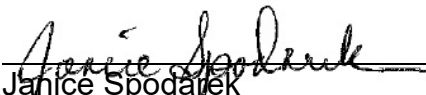
DECISION AND ORDER

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. Initiate a review of Petitioner's eligibility for MA effective 3/1/18, and request any necessary verification(s) required or outstanding from Petitioner regarding income and assets; and
2. The Department shall issue a written notice to Petitioner of the outcome of the reprocessing of Petitioner's MA case; and
3. The Department shall issue any supplemental benefits to Petitioner to which he may be entitled to as a result of the reprocessing.

JS/nr



Janice Spodarek
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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]