



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: January 15, 2019
MAHS Docket No.: 18-012036
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 January 9, 2019, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Edna Vasquez, Assistance Payments Supervisor, and Adrian Gutierrez, Migrant Program Worker. During the hearing, a 26-page packet of documents was offered into evidence and admitted as Department's Exhibit A, pp. 1-26.

ISSUES

Did Petitioner submit a timely request for hearing that would enable the Administrative Law Judge (ALJ) to exercise jurisdiction over this matter?

If so, did the Department follow law and Department policy when determining Petitioner's eligibility for Medicaid (MA) coverage?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In [REDACTED] 2017, Petitioner submitted to the Department an application for MA benefits along with supporting documentation. Exhibit A, pp. 1-23.
2. On April 13, 2017, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that Petitioner's MA benefits application was denied. Exhibit A, pp. 25-26.

3. On November 15, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's April 13, 2017, action.

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.

On November 15, 2018, Petitioner filed a hearing request objecting to the Department's denial of Petitioner's MA application. Petitioner was notified of the case action on April 13, 2017.

Clients have the right to a hearing to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. Upon receiving a request for hearing, the Department will forward the matter to the Michigan Administrative Hearing System (MAHS) for a hearing before an Administrative Law Judge (ALJ). The ALJ has jurisdiction to hear a case involving any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. BAM 600 (January 2018), p. 5.


However, the ALJ only has jurisdiction to hear a timely and properly submitted request for hearing. BAM 600 (January 2018), p. 6, provides in relevant part as follows:

The client or [authorized hearing representative] has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days.

Petitioner requested a hearing on November 15, 2018, claiming that the Department's 2017 actions with respect to his MA benefits application were wrongful. The Notice of Case Action informing Petitioner of the Department's action was issued on April 13, 2017. Petitioner did not submit a hearing request to the Department within 90 days of April 13, 2017. Because Petitioner's hearing request was untimely, whether or not the Department properly denied Petitioner's MA benefits application is not an issue that this ALJ has the authority to hear or issue a decision upon. Petitioner raised a number of equitable arguments during the hearing on this matter. This ALJ lacks equitable power and does not have jurisdiction to craft equitable remedies. Since the issues raised by Petitioner's request for a hearing fall outside the ALJ's jurisdiction, Petitioner's request for a hearing must be dismissed for lack of jurisdiction.

THEREFORE, IT IS ORDERED that Petitioner's November 15, 2018, request for hearing is dismissed for lack of jurisdiction.

JM/hb



John Markey
Administrative Law Judge
for Robert Gordon, Acting 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

Cindy Tomczak
401 Eighth Street
PO Box 1407
Benton Harbor, MI 49023

Berrien County, DHHS

BSC3 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]