



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

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Date Mailed: April 12, 2019
MAHS Docket No.: 18-012766
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a hearing was held in person in Traverse City on April 10, 2019. Petitioner, ██████████ was represented by ██████████, Petitioner's attorney. Jennifer Walker, Assistant Attorney General, Kyle Bruckner, Assistant Attorney General, and Rebecca Ferrill, Assistance Payments Supervisor, appeared for the Michigan Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 98-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA)?

FINDINGS OF FACT

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

1. Petitioner is a veteran.
2. On ██████████ 2018, Petitioner applied for extended care MA and an initial asset assessment (IAA). In Petitioner's application, Petitioner answered "No" when asked if he had income from veterans' benefits.

3. On October 11, 2018, the Department issued a Verification Checklist to Petitioner to obtain information to review his eligibility for assistance. The Verification Checklist stated that the Department needed proof that Petitioner had applied for VA benefits; the Department stated that a response was due by October 23, 2018; and the Department stated that failure to provide the requested proofs or contact the Department could result in the denial of benefits.
4. On October 18, 2018, Petitioner's attorney sent a fax to the Department in response to its Verification Checklist. Petitioner's attorney stated, "please note there is no application for VA benefits so there are no proofs to provide."
5. On October 22, 2018, the Department issued another Verification Checklist to Petitioner to obtain information to review his eligibility for assistance. The Verification Checklist stated that the Department needed proof that Petitioner had applied for VA benefits; the Department stated that a response was due by November 1, 2018; and the Department stated that failure to provide the requested proofs or contact the Department could result in the denial of benefits.
6. Petitioner did not provide any proof to the Department by November 1, 2018, to show that he had applied for VA benefits.
7. On November 13, 2018, the Department issued a Health Care Coverage Determination Notice in which the Department notified Petitioner that he was not eligible for MA because he failed to provide requested verifications.
8. On November 26, 2018, Petitioner requested a hearing to dispute the Department's decision to find Petitioner not eligible for MA.

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), and Department of Health and Human Services Reference Tables Manual (RFT).

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.

The Department must request verification when required by policy. BAM 130 (April 1, 2017), p. 1. Here, the Department determined that verification was required because Petitioner was a veteran, Petitioner may have been eligible for VA benefits as a veteran, and the Department did not have any evidence that Petitioner had applied for VA

benefits. The Department acted in accordance with its policies when it requested verification from Petitioner because verification of application for potential VA benefits was required. As a condition of eligibility for MA, individuals must apply for any state and/or federal benefits for which they may be eligible. BEM 270 (January 1, 2018), p. 1. Refusal of an individual to pursue a potential benefit results in the individual's ineligibility. BEM 270, p. 1. Potential benefits include VA benefits. BEM 270, p. 2. VA benefits are potential benefits to a disabled veteran. BEM 270, p. 4.

When the Department requests verification, the Department must tell a client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department must allow the client 10 calendar days to provide requested verification. BAM 130, p. 8. The client must obtain the verification, but the local office must assist if the client needs it and asks for help. BAM 130, p. 8. Verifications are only considered timely if they are received by the due date. BAM 130, p. 8. The Department must send a Negative Action Notice when the due date lapses or the client has refused to provide the verification. BAM 130, p. 8.

The Department sent Petitioner a Verification Checklist which instructed Petitioner that verification of application for VA benefits was required, how to obtain it, and the due date. It was Petitioner's responsibility to obtain the requested verification and to make sure the Department received it by the due date. Petitioner did not provide the requested verification by the due date, so the Department properly issued a Notice of Case Action which found Petitioner ineligible for MA due to his failure to provide the requested verification.

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 did act in accordance with its policies and the applicable law when it found Petitioner ineligible for MA effective July 1, 2018.

IT IS ORDERED the Department's decision is AFFIRMED.

JK/nr



Jeffrey Kemm
Administrative Law Judge
for Robert Gordon, 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

Eileen Asam
701 S. Elmwood Suite 19
Traverse City, MI
49684

Grand Traverse County DHHS- via
electronic mail

BSC1- via electronic mail

D. Smith- via electronic mail

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