



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 29, 2019
MAHS Docket No.: 19-001248
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 March 28, 2019, from Detroit, Michigan. Petitioner was represented by [REDACTED] Authorized Hearing Representative. The Department of Health and Human Services (Department) was represented by Brenda Drewnicki.

ISSUE

Did the Department properly process Petitioner's October 25, 2018, application for Medicare Savings Program (MSP) benefits?

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] 2018, Petitioner submitted to the Department an application for MSP benefits. On the application, Petitioner also requested retroactive benefits for the three full months before the application.
2. On the application, Petitioner indicated that he had an Authorized Representative and provided the address for all correspondence to be sent.
3. On January 4, 2019, the Department finally began the processing of Petitioner's application. The Department issued requests for further information but only sent them to Petitioner's address, not the Authorized Representative.

4. On [REDACTED] 2019, Petitioner's Authorized Representative submitted to the Department a request for hearing objecting to the Department's failure to process Petitioner's MSP application in a timely manner.
5. After filing the hearing request, Petitioner's application was processed partially. However, the Department still has not processed the part of the application requesting retroactive MSP benefits for the months of July, August, and September 2018.

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 submitted an application for MSP benefits on [REDACTED] 2018, through his Authorized Representative. The application requested retroactive benefits. No action was taken by the Department until January 2019, when it began sending out requests for information related to the application. However, those requests were only sent to Petitioner, not to the Authorized Representative. On [REDACTED] 2019, the Authorized Representative submitted a request for hearing objecting to the Department's failure to process the application. Following the request for hearing, Petitioner was eventually approved for MSP benefits, effective October 1, 2018. However, the Department has still not processed Petitioner's application for retroactive benefits and is still failing to send critical correspondence to Petitioner's Authorized Representative.

At the beginning of the hearing, the Department representative, Ms. Drewnicki, acknowledged that the Department had failed to properly process Petitioner's application for MSP benefits by failing to issue any determination with respect to Petitioner's eligibility for retroactive MSP benefits. Ms. Drewnicki further acknowledged that the Department was not sending correspondence to Petitioner's Authorized Representative, as required by policy. The parties stipulated that the appropriate action would be to require the Department to reprocess Petitioner's application and make a determination as to Petitioner's eligibility for MSP benefits from July 1, 2018, through September 30, 2018, and to require the Department to send correspondence to

Petitioner's Authorized Representative. Accordingly, the Department's decision is reversed.

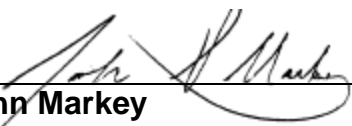
DECISION AND ORDER

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. Reregister Petitioner's [REDACTED], 2018, application for retroactive MSP benefits;
2. Determine Petitioner's eligibility for MSP benefits for the months of July, August, and September 2018;
3. Ensure that all correspondence is issued to Petitioner's Authorized Representative, as required by policy, at the Authorized Representative's address of record, which, at the time of the issuance of this decision, is [REDACTED], [REDACTED], Florida 33326;
4. Notify Petitioner and Petitioner's Authorized Representative of its decision in writing.

JM/cg



John Markey
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

Via Email:

MDHHS-Macomb-12-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MAHS

**Authorized Hearing Rep. –
Via First-Class Mail:**

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

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