



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.: 19-001681
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 appeared and was represented by her husband and Authorized Representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by Hasem Hosny, Eligibility Specialist. During the hearing, a three-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-3.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) case, effective April 1, 2019, for allegedly failing to return requested verifications?

Did the Department properly close [REDACTED] MA case, effective February 1, 2019, for allegedly failing to return requested verifications?

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 and her husband, [REDACTED] were ongoing recipients of MA coverage from the Department. Their benefits had been certified through January 31, 2019.
2. As part of the redetermination process, the Department issued to Petitioner a Verification Checklist (VCL) on January 2, 2019. The VCL requested, in relevant

part, information related the household's income. The requested verifications were due by January 14, 2019. Exhibit A, pp. 1-2.

3. On January 10, 2019, the Department received responsive filings from Petitioner, including a 2018 tax return form showing the household's income over the previous year.
4. On January 15, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that [REDACTED] MA benefits were closing, effective February 1, 2019. According to the Department witness's testimony, the document also served as notice that Petitioner's MA benefits were closing, effective April 1, 2019. Exhibit A, p. 3.
5. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of Petitioner's and [REDACTED] MA benefits.

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 and her husband, [REDACTED], were active recipients of MA benefits with a benefit period certified through the end of January 2019. As part of the process to recertify their benefits, the Department issued to Petitioner a VCL on January 2, 2019, requesting information related to the household's income. The requested verifications were due by January 14, 2019. On January 10, 2019, Petitioner submitted to the Department tax returns showing the household's income over the previous year. The following day, the Department issued a Health Care Coverage Determination Notice that served as notice that [REDACTED] MA benefits were closing February 1, 2019, and Petitioner's MA benefits were closing April 1, 2019. Petitioner objected to the Department's action and asserted that he turned in all information requested of him in a timely manner.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. Additionally, the

Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, page 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The January 2, 2019, VCL requested information related to Petitioner's household income, due by January 14, 2019. On January 10, 2019, the Department received Petitioner's response to the VCL. During the hearing, the Department representative conceded that Petitioner's January 10, 2019, submission of income information was timely and responsive to the January 2, 2019, VCL. However, the day after receiving the timely and responsive submission, the Department issued a notice closing Petitioner's and her husband's MA benefits cases. The notice simply said "You did not give proof of information your local DHS office asked for. See your verification checklist for a list of items you were asked to provide."

The Department may only send negative case action where an individual indicates a refusal to provide verification or the time limit for providing the verification has passed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. Petitioner never indicated an unwillingness to provide the information, and certainly, timely providing what was requested qualifies as a reasonable effort to provide the information. As neither of the conditions for sending a negative case action were present, the Department was precluded from sending a negative case action. The Department improperly closed the two MA benefits cases in violation of Department policy regarding verifications. If there are any outstanding eligibility related factors that needed verifying, the Department must follow Department policy in requesting and processing those requests.

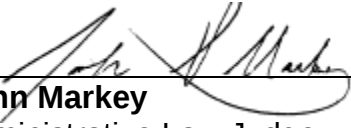
DECISION AND ORDER

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. Reinstate Petitioner's MA benefits case, effective April 1, 2019;
2. Reinstate [REDACTED] MA benefits case, effective February 1, 2019;
3. Complete the redetermination process with respect to both Petitioner's and [REDACTED]. [REDACTED] MA benefits cases, which may include the issuance of verifications to Petitioner that may still be needed to determine ongoing eligibility while ensuring that the requests are clear as to what is being requested;
4. Notify Petitioner in writing of its decisions.

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-36-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MAHS

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

[REDACTED]
[REDACTED]
[REDACTED]

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

[REDACTED]
[REDACTED]
[REDACTED]