



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: May 20, 2019
MOAHR Docket No.: 19-003480
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 May 8, 2019, from Lansing, Michigan. Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was represented by Sabrina Hopkins, APS.

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. Prior to the negative action herein, Petitioner was a recipient of full Medicaid on the basis of being an SSI recipient.
2. On December 14, 2018, the Department issued a notice of MA closure effective January 1, 2019, due to notification from SSA that Petitioner's SSI closed.
3. On January 1, 2019, Petitioner's MA closed.
4. On March 12, 2018, 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, the Department failed to present any credible documentary evidence of the action taken in this case, and/or the policy that the Department should have followed. At the same time, both Petitioner and the Department representative do not dispute these facts: Petitioner was receiving SSI and corresponding Medicaid managed by the State of Michigan; Petitioner's SSI closed due to Petitioner's social security benefits switching over to RSDI. Following this, the Department closed Petitioner's MA when her SSI closed. In addition, all communications between Petitioner and the Department have broken down—the Department claims that Petitioner refuses to speak with the Department and Petitioner claims that her address has changed.

Here, Petitioner asked for an administrative hearing in part, to contest the way she feels she is treated—basically to file a complaint about the conduct of a state employee. However, under the Michigan Administrative Code, Administrative Hearing Rules, Administrative Law Judges do not have jurisdiction to review such complaints:

MOAHR rules state:

R 792.11002 Right to hearing

Rule 1102...(3) A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the agency customer service unit.

Petitioner also filed a hearing request to file a complaint about being discriminated against. However, ALJs also do not have jurisdiction to rule on the same. Petitioner is advised:

Clients have the right to be treated with dignity and respect.

...Clients have the right to make complaints to the:

Michigan Department of Health and Human Services
Specialized Action Center
235 S. Grand Avenue
P.O. Box 30037
Lansing, MI 48909
Or call (855) 275-6424 or (855) ASK-MICH.

Complaints that are deemed to be potential ADA or discrimination claims will be routed directly to the county director. The county director will use the Office of Human Resources (OHR) to properly address all aspects of the allegations. All other complaints that come through the Specialized Action Center will be routed to the customer information specialist in the district/county office for follow-up.

Michigan Department of Civil Rights (MDCR) and/or US Equal Employment Opportunity Commission complaints regarding clients must be routed directly to OHR for review and a coordinated response with the District/County office. Any mediations, settlements or appeals will be directed to the office legal services and policy for further review and coordination with the district/county office.

The Office of Human Resources is responsible for all agency equal opportunity and diversity efforts. For more information, visit this website: http://www.michigan.gov/dhs/0,4562,7-124-5459_7701_7845---,00.html.

Policy found in BAM 105 titled Rights and Responsibilities identifies where clients can file any such complaint(s). In general, clients can file a complaint at the local office, and/or at the Central Office in Lansing. For federally funded programs, clients may also file a complaint with the federal agencies. BAM 105.

As to Petitioner's eligibility for MA, Petitioner has the right to apply for medical assistance. However, based on the testimony at the administrative hearing, Petitioner has not reapplied for various reasons, some of which appear to be the result of her address changes, and some which were due to the Department failing to issue proper verification forms for her to apply.

In light of this, the Department agreed to assist Petitioner in reapplying/applying for MA benefits immediately after the hearing, or the next day.

However, based on the failure of the Department to meet its burden of going forward as the Department failed to present an evidentiary packet in this matter, and failed to show that it followed its verification policy in allowing Petitioner to reapply for MA. Thus, this ALJ orders the Department to begin reprocessing Petitioner's MA case, if not already done, and if eligible, the Department is ordered to make Petitioner's MA benefits effective from the January 1, 2019, the date of closure.

DECISION AND ORDER

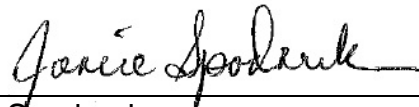
Accordingly, the Department's decision is **REVERSED**.

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. Begin assisting Petitioner in reprocessing/reapplying for MA, if not already started, and
2. If approved, Petitioner shall have her MA opened back to January 1, 2019, the date of closure, and
3. Issue written notice to Petitioner as to the outcome of the Department reprocessing Petitioner's MA case. Petitioner shall retain a right to a hearing for 90 days from the date of the new notice should Petitioner dispute the outcome.

IT IS SO ORDERED.

JS/nr



Janice Spodarek
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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR 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

Richard Latimore
4733 Conner
Detroit, MI 48215

Wayne County 57 DHHS- via electronic
mail

BSC4- via electronic mail

EQAD- via electronic mail

D. Smith- via electronic mail

Petitioner

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