



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: June 28, 2019
MOAHR Docket No.: 19-003785
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 30, 2019, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Jamika Ashwood, Eligibility Specialist and Harry Murphy, Eligibility Specialist.

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 was a recipient of MA.
2. On August 26, 2016, Petitioner received a Notice of State SSI Payment Change, DHS 430, that her case was closed effective August 26, 2016, because the Social Security Administration (SSA) notified the Department that Petitioner was no longer eligible for SSI because she started receiving RSDI benefits instead. Department Exhibit A.
3. On November 3, 2016, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that effective December 1, 2016, that

she was not eligible for the Medicare Savings Program (MSP) and that she was not eligible for MA. Department Exhibit C.

4. On November 22, 2016, Petitioner received a Notice of State SSI Payment Change, DHS-430, that her case was closed effective November 22, 2016, because the Social Security Administration notified the Department that Petitioner was no longer eligible for SSI. Department Exhibit B.
5. On [REDACTED] 2018, Petitioner applied for MA. Department Exhibit D.
6. On December 27, 2018, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that effective December 1, 2018, ongoing that she had full coverage for the MSP and effective October 1, 2018, ongoing that she had full coverage for MA. Department Exhibit 1, pgs. 6-8.
7. On April 15, 2019, the Department received a hearing request from Petitioner, contesting the Department's negative action.
8. On April 17, 2019, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that effective July 1, 2018, through September 30, 2018, that she had full coverage for MA. Department Exhibit E.

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 was switched by the SSA from SSI to RSDI, which affected the benefits that she received from the Department. Her State SSI benefits were cancelled because she was no longer eligible because she was not receiving SSI benefits. The Department did send her a notice on August 26, 2016, and November 22, 2016, that her State SSI benefits were cancelled.

On November 3, 2016, the Department sent her a notice that she was no longer eligible for the MSP and MA programs effective December 1, 2016. This was an error for MA because she was eligible for MA and might have been eligible for MSP based on a new

budget. Petitioner faxed a notice to this Administrative Law Judge on May 28, 2019, signed December 10, 2016, that asked her Department Caseworker S. Davis to correct the error because she was eligible for MA benefits because she was over 65 years of age. Petitioner Exhibit 1, pg. 1. The Department failed to act on her written request and her MA and MSP case remained closed. Petitioner failed to ask for a hearing within 90 days of the Department's negative action, which was due by February 3, 2017, to be timely.

Petitioner reapplied for MA benefits on [REDACTED] 2018, and asked for retro MA. The Department gave her current MA benefits on December 27, 2018, retroactive to October 1, 2018, but failed to activate her retro MA benefits until April 17, 2019. In addition, her MSP was restarted effective December 1, 2018, based on her [REDACTED] 2018 application. Petitioner paid her Medicaid part B premiums from December 11, 2016, until November 1, 2018. BAM 115.

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 acted in [REDACTED] with Department policy when it correctly processed Petitioner's [REDACTED] 6, 2018, application which made her eligible for MA retroacting to July 1, 2018, ongoing and MSP effective December 1, 2018, ongoing. Petitioner did lose MA benefits from 2016, but no hearing request was filed at that time so a hearing for that time of 2016 is not timely.

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

CF/hb



Carmen G. Fahie
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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Denise McCoggle
27260 Plymouth Rd
Redford, MI 48239

Wayne County (District 15), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

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

Authorized Hearing Rep.

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