



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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Date Mailed: June 4, 2019
MOAHR Docket No.: 19-004116
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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. ██████ ██████ the Petitioner, personally appeared and testified. The Petitioner submitted 7 exhibits which were admitted into evidence.

The Department of Health and Human Services (Department) was represented by Eligibility Specialist Haysem Hosny. Mr. Hosny testified on behalf of the department. The department submitted 18 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly close his Healthy Michigan Program (HMP) 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 ██████████ ██████ 2019, the Petitioner submitted a redetermination to the department for the HMP. [Dept. Exh. 1].
2. On March 22, 2019, the department mailed the Petitioner a Health Care Coverage Determination Notice informing him that he was not eligible for HMP beginning May 1, 2019. [Dept. Exh. 3].

3. On April 15, 2019, the Petitioner submitted a request for hearing contesting the closure of his HMP benefits. [Petitioner's Exhibits 1-7].
4. On April 22, 2019, during the prehearing conference, the Petitioner explained that the paystubs he submitted were overtime checks and not a true reflection of his annual income. The department gave the Petitioner a DHS-38, verification of employment, and requested his employer to complete it showing future earnings. The Petitioner was told that upon his return of the completed DHS-38, the department would review his HMP eligibility. [Hearing Summary].
5. During the hearing on May 30, 2019 in the above captioned matter, the eligibility specialist indicated that the Petitioner had timely submitted the completed DHS-38 but the department had not reviewed it. [Testimony of Haysem Hosney, May 30, 2019].

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 gave the Petitioner a DHS-38 for his employer to complete and instructed the Petitioner that upon his return of the completed DHS-38 to the department, his case would be reviewed. The department did not issue the Petitioner a verification checklist and according to testimony at the hearing, the Petitioner timely submitted the completed DHS-38 but the case was not reviewed.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it received the completed DHS-38 but failed to review the Petitioner's continued HMP eligibility.


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. Redetermine the Petitioner's eligibility for HMP using the completed Verification of Employment completed by the Petitioner's employer, based on the Petitioner's February 26, 2019 application.
2. Issue a Health Care Coverage Determination Notice with the results of the redetermination.
3. Assist the Petitioner with any HMP benefits he may otherwise be entitled to receive.

VLA/nr



Vicki L. Armstrong
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

Dawn Tromontine
41227 Mound Rd.
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Petitioner

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