



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 7, 2019
MOAHR Docket No.: 19-006446
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 July 31, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Robin Morales-Oscoy, Eligibility Specialist. During the hearing, a 14-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-14.

ISSUE

Did the Department properly determine Petitioner's Medicaid (MA) eligibility, effective July 1, 2019?

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 June 7, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was eligible for MA benefits from the Department subject to a \$1,102 monthly deductible. Exhibit A, pp. 10-14.
2. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

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 objected to the Department's determination that Petitioner was eligible for MA benefits subject to a monthly \$1,102 deductible. The notice informing Petitioner of that determination was issued on June 7, 2019, and Petitioner submitted her hearing request on [REDACTED], 2019.

Upon receiving Petitioner's hearing request, the Department put together a hearing summary and packet of supposed evidence supporting its decision. The hearing summary included sections that informed the reader that Petitioner was notified of the decision on June 24, 2019 and that the decision was effective June 24, 2019. Incredibly, the same document states that Petitioner submitted her hearing request on [REDACTED], 2019, 11 days prior to being notified. The hearing summary then goes on to state:

The hearing request is on timely [sic] per BAM 600 page 6 provides that a request for hearing must be received in the department local office within the 90 days of the date of the written notice of case action. Ms Muawir [sic] submitted hearing request for medical on 6/13/19 for a closed case as 6/11/2018. Client and spouse are active MA spend-down and Food stamp under case number 117165478.

The hearing packet then includes the hearing request specifically objecting to the MA spend-down amount, a June 11, 2018 Health Care Coverage Determination Notice, and a June 7, 2019 Health Care Coverage Determination Notice. Notably, the June 7, 2019 Health Care Coverage Determination Notice informed Petitioner that she was subject to a \$1,102 monthly deductible, and the [REDACTED] 2019 hearing request stated that Petitioner could not afford the \$1,102 monthly deductible. No substantive evidence was presented to substantiate the Department's conclusion that Petitioner was eligible for MA benefits subject to a \$1,102 deductible.

Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits when the client believes the decision is incorrect. BAM 600 (October 2018), pp. 1, 5. When a hearing request is filed, the matter is transferred to the Michigan Office of Administrative Hearings and Rules (MOAHR) for a hearing before an Administrative Law Judge. BAM 600, p. 1. In preparation for the hearing, the Department is required to send to MOAHR and the client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 10. Additionally, a hearing packet must be prepared to send along with the hearing summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum, the relevant Notice of Case Action and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

At the hearing, the Department representative and client are tasked with presenting their respective cases with reference to the documents provided in the hearing packet or otherwise properly served under the Michigan Administrative Rules. BAM 600, p. 37. After hearing the evidence, the Administrative Law Judge has the duty to review the evidence presented and based on that evidence, determine whether the Department met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, p. 39.

The Department's presentation of this case compels only one outcome: reversal. The hearing summary contained factually incorrect information that even a cursory review of the file would reveal. The documents provided in no way support the decision taken by the Department. The Department's posturing that this was an untimely hearing request borders on the absurd as Petitioner's hearing request specifically refers to information conveyed to Petitioner just a few days before the hearing request was received. Granted, Petitioner did put a different case number on the hearing request. However, the Department has a duty to assist clients with their filings. Reading that hearing request as a challenge of a June 2018 notice and ignoring the June 2019 notice that it clearly refers to falls well short of providing assistance to the client. In short, the Department failed to meet its burden of proof and is reversed.

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 determined Petitioner's eligibility for MA benefits, effective July 1, 2019.

DECISION AND ORDER

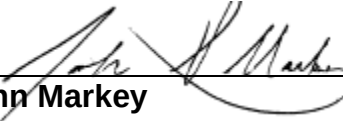
Accordingly, the Department's decision is **REVERSED**.

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 Petitioner's eligibility for MA benefits, effective July 1, 2019, ongoing;
2. If eligible, provide the MA benefits Petitioner is eligible for from July 1, 2019, ongoing; and
3. 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 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

Via Email:

MDHHS-Macomb-20-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

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

[REDACTED]
[REDACTED]
[REDACTED]