



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 20, 2019
MOAHR Docket No.: 19-007303
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 August 15, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Manager.

ISSUE

Did the Department properly close Petitioner's and his two children's Medical Assistance (MA) Program 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 May 13, 2019, Petitioner submitted an Application for MA benefits for himself.
2. On May 23, 2019, the Department issued a Health Care Coverage Supplemental Questionnaire (HCCSQ) to Petitioner which was due by June 3, 2019.
3. On the same day, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that both of his children were no longer eligible for MA benefits due to excess assets.
4. At the hearing, the Department was uncertain why this notice was issued as there was no verification of assets in May 2019.

5. On June 3, 2019, the Department received the completed HCCSQ from Petitioner listing both his checking and savings accounts with [REDACTED] in addition to verification of his wife's wages.
6. On June 6, 2019, the Department issued a Verification Checklist (VCL) to Petitioner for proof of his checking account as listed on page one and his checking and savings account listed on page two by June 17, 2019.
7. On June 14, 2019, the Department received verification of Petitioner's checking account.
8. On June 19, 2019, the Department issued a HCCDN to Petitioner informing him that neither he nor his children were eligible for MA benefits because he had failed to provide request verifications effective May 1, 2019.
9. On July 1, 2019, the Department received Petitioner's request for hearing disputing the denial of MA benefits for himself and his two children in addition to verification of Petitioner's saving account.

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 disputes the Department's determination of ineligibility for the MA program for himself and his two children based upon a failure to verify his savings account or excess assets for his children based upon the HCCDN issued on May 23, 2019. Petitioner was potentially eligible for the Ad-Care category and his children were previously eligible for MA benefits with a deductible under the Group 2 Under 21 MA category. Both programs require asset eligibility. BEM 163 (July 2017), p. 2; BEM 132 (April 2018), p. 2; BEM 400 (April 2019), pp. 1, 6-8. Therefore, the Department is required to verify assets for each of these programs. BEM 400, p. 62. In order to verify various eligibility factors, the Department is required to issue a Verification Checklist (VCL) to clients explaining what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. In MA cases, the Department is required to provide

the client with ten calendar days to provide any requested verifications. BAM 130, p. 8. If the client cannot provide the verification despite a reasonable effort, the Department should extend the time limit up to two times. *Id.* For an extension to be granted, the client must request an extension, there must be a need for the extension, reasonable efforts must have been made, and every effort has been made by the Department to assist the client in obtaining the verifications. *Id.* Case action notices are sent when a client indicates a refusal to provide a verification or when the time period given has lapsed. *Id.*

The Department was unable to provide any evidence that closure of Petitioner's children's MA benefits with the May 23, 2019 was in accordance with policy or why the closure occurred since there had been no verification of assets as of May 23, 2019. Therefore, the closure of Petitioner's children's MA benefits with the May 23, 2019 HCCDN was not in accordance with Department policy.

Turning to the issue of the closure and denial associated with the June 19, 2019 HCCDN, both Petitioner and his children were denied or closed because of Petitioner's failure to verify his savings account. Petitioner submitted his checking account verifications, but did not see the second page requesting verification of his savings account. Unfortunately, because he did not seek assistance or an extension, the Department was correct in failing to provide an extension. Likewise, since Petitioner failed to return the requested documentation by the due date, the Department properly denied his application. However, the Department was required to give timely notice of the closure of Petitioner's children's MA benefits since their benefits were supposed to be active as of the time of the requested verifications. BAM 130, p. 9. Timely notice requires that the Department mail the case action notice at least 11 days before the intended negative action takes effective. When the Department closed Petitioner's children's MA case, they closed it retroactively to May 1, 2019. Instead, because the Department took action on June 19, 2019, the closure should have been effective July 1, 2019. Therefore, the closure of Petitioner's children's MA benefits was not in accordance with Department policy.

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 accordance with Department policy when it denied Petitioner's Application for MA benefits but did not act in accordance with Department policy when it closed Petitioner's children's MA benefits with the May 23, 2019 HCCDN nor when it closed their MA benefits effective May 1, 2019 with the June 19, 2019 HCCDN.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the denial of Petitioner's MA benefits and **REVERSED IN PART** with respect to the closure of Petitioner's children's MA benefits.

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 children's MA benefits for May and June 2019; and,
2. Issue supplements to Petitioner for his children or on their behalf for MA benefits not previously issued.

AM/tm



Amanda M. T. Marler
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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]