



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 23, 2019
MOAHR Docket No.: 19-007406
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 August 21, 2019 from Detroit, Michigan. Petitioner was represented by [REDACTED], Authorized Hearing Representative. The Department of Health and Human Services (Department) was represented by LaShona Callen, Assistance Payments Supervisor. During the hearing, two packets of documents were offered and admitted into evidence as Exhibit A, pp. 1-21, and Exhibit B, pp. 1-5.

ISSUE

Did the Department properly process Petitioner's April 3, 2019 application for Medicaid (MA) 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 [REDACTED] 2019, Petitioner, through his Authorized Representative, [REDACTED] submitted to the Department an application for MA benefits, including Medicare Savings Program (MSP) benefits. The application requested retroactive eligibility for January 2019, February 2019, and March 2019. Exhibit A, pp. 6-16.
2. On June 24, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that he was eligible for MA coverage subject to a \$939 monthly deductible, effective April 1, 2019. Additionally,

Petitioner was informed that he was eligible for MSP benefits, effective June 1, 2019. Exhibit B, pp. 1-4.

3. During the hearing, Ms. Callen explained that Petitioner's MSP benefits were approved under the ALMB category, effective April 1, 2019, ongoing and provided documentation showing that he was so eligible. Exhibit B, p. 5.
4. Petitioner's eligibility for MA and MSP benefits for January 2019, February 2019, and March 2019 was never determined by the Department.
5. On [REDACTED], 2019, on Petitioner's behalf, [REDACTED] submitted to the Department a request for hearing objecting to the Department's failure to properly process Petitioner's [REDACTED], 2019 application for MA benefits.

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 submitted to the Department an application for MA and MSP benefits on [REDACTED], 2019. In addition to requesting prospective coverage, Petitioner's application requested retroactive MA and MSP benefits for the months of January 2019, February 2019, and March 2019. On June 24, 2019, the Department issued a Health Care Coverage Determination Notice finding Petitioner eligible for MA coverage subject to a deductible, effective April 1, 2019, and eligible for MSP benefits, effective June 1, 2019. However, Petitioner was subsequently approved for MSP benefits back to April 1, 2019. Notably, the Department did not analyze Petitioner's eligibility for January 2019, February 2019, or March 2019 or issue a decision regarding the same. On [REDACTED] 2019, Petitioner's Authorized Representative requested a hearing to address the Department's failure to properly process the April 3, 2019 application.

Retroactive MA coverage is available back to the first day of the third calendar month prior to the application filing date. BAM 115 (January 2019), p. 12. When an individual applies for MA benefits, the Department must certify program approval or denial of the application within 45 days of receipt. BAM 115, p. 16. The Department must determine eligibility within that time frame unless the Department cannot reach a decision due to a

failure to act by the applicant or there is an administrative or other emergency beyond the Department's control. 42 CFR 435.912(e). Additionally, for retroactive MA and MSP requests, the Department must make a determination of eligibility for each of the months requested. BAM 115, p. 13.

This case is very simple. Petitioner applied for retroactive MA and MSP benefits on April 3, 2019. As of the date of the hearing, the Department had not made any determinations with respect to Petitioner's MA and MSP eligibility for the requested months of January 2019, February 2019, and March 2019. Law and Department policy require the Department to determine eligibility for those months.

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 did not act in accordance with Department policy when it processed Petitioner's [REDACTED], 2019 application for MA and MSP benefits.


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. Reprocess Petitioner's [REDACTED] 2019 application for retroactive MA and MSP benefits;
2. Determine Petitioner's eligibility for MA and MSP benefits for the months of January 2019, February 2019, and March 2019; and
3. Notify Petitioner and Petitioner's Authorized Representative of its decisions in writing.

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-Oakland-3-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

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

████████████████████
████████████████████
████████████████████

**Authorized Hearing Rep. –
Via First-Class Mail:**

████████████████████
████████████████████
████████████████████