



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: September 13, 2019
MOAHR Docket No.: 19-008350
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 September 12, 2019, from Lansing, Michigan.

Petitioner personally appeared and testified unrepresented.

The Department of Health and Human Services (Department) was represented by Rolla Ley, Lead Worker. Jason Wernholm, ES, appeared as a witness.

ISSUE

Did the Department properly deny Petitioner's health care application?

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 applied for Part B payment with the MDHHS.
2. On May 6, 2019 Petitioner delivered a copy of an ATM slip with the last 4 numbers of his account number and a balance of \$ [REDACTED] Exhibit A.20.
3. On May 7, 2019 the Respondent issued a verification checklist (VC) with a May 30, 2019 due date requesting a current statement of Petitioner's savings account. On that date, the Department also had an In-person interview with Petitioner. The Department had in its possession the bank statement. The Department testified that it did not discuss Ex A.20 with Petitioner at the May 7, 2019 interview.

4. On July 17, 2019 the Department denied Petitioner's MA request on the grounds that Petitioner failed to return a verification of his savings bank account.
5. On July 31, 2019 Petitioner filed a hearing request.

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, applicable policy and procedure is found at BEM 400; BAM 105, 110-115. These policies require that an individual who receives benefits from the State of Michigan have adequate verifications in their files. Failure to have proper verification(s) can subject the State of Michigan to financial penalties.

In this case, the Department requested that Petitioner hand in a verification of a bank statement on May 7, 2019. However, on May 7, 2019 the Department already had in its possession a copy of Petitioner's ATM slip. On May 20, 2019 the Department informed Petitioner that the May 6, 2019 bank verification was not turned in. At the Administrative Hearing, the Department testified that the verification returned was not acceptable. Upon further inquiry, the Department testified that the slip failed to contain Petitioner's name. The Department then argued that Petitioner should have attached a copy of his bank card so that the Department could correlate that last 4 digits on the ATM statement with Petitioner's card.

What is left unsaid is how Petitioner would have or could have known that he should have copied his bank card if the Department never instructed him to do so, or given him an opportunity to do during the fifteen days between when the Department received the verification and denied the application. It goes without saying also that at the time of the interview, the Department had in its possession the verification, and the Department knew or should have known it was insufficient, and could easily have instructed Petitioner as to how to cure at the May 7, 2019 interview.

At the administrative hearing, Petitioner presented his card and the Department verification that in fact the slip belonged to Petitioner, and that Petitioner consequently is eligible for Part B payment by the State of Michigan. The Department also stipulated

that the Department should have informed Petitioner as to how to correct the verification to give Petitioner a chance to cure before denying.

An individual cannot request help with insufficient verification from a third party if that individual is not aware that the verification is unacceptable in the first place. Such assistance from the Department is required by policy.

While the outcome in this case may have been in part a result of a peculiar sequence of events (i.e. the delivery of the verification prior to the VC being issued), nevertheless, Petitioner has met his burden of proof and thus, he is entitled to prevail.

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. Reinstate Petitioner's May 7, 2019 MA application for Part B, and
2. Open Petitioner's case for him to be eligible for Part B payments as the Department agreed that Petitioner was otherwise eligible and keep the case open and continuing, and
3. Issue any supplement benefits to Petitioner to which he may be eligible.

IT IS SO ORDERED.

JS/nr



Janice Spodarek
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

Lacey Whitford
1919 Parkland Drive
Mt. Pleasant, MI
48858

Isabella County DHHS- via electronic mail

BSC2- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI