



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED]

Date Mailed: July 12, 2019
MOAHR Docket No.: 19-005867
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 10, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Lacy Miller, Hearings Facilitator. During the hearing, a 38-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-38.

ISSUE

Did the Department properly deny Petitioner's February 12, 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 submitted to the Department an application for MA benefits. Exhibit A, pp. 3-11.
2. On February 13, 2019, the Department issued to Petitioner a Verification Checklist requesting documentation regarding Petitioner's income. The verifications were due by February 25, 2019. Exhibit A, pp. 12-13.
3. In the almost two weeks between February 13, 2019 and February 25, 2019, Petitioner repeatedly attempted to contact the Department in order to get some clarity as to what was being requested of her. On one day in particular, she waited

over six hours on hold before hanging up, which she only did because the Department was no longer open.

4. After not being able to contact the Department to figure out what exactly was being requested, Petitioner sent the Department everything she had on February 25, 2019. While it was placed in the mail that day, it was not received by the Department until February 28, 2019. Exhibit A, pp. 17-31.
5. On February 26, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice denying Petitioner's MA application for failure to provide requested verifications. Exhibit A, pp. 14-16.
6. On May 28, 2019, Petitioner submitted to the Department a timely request for hearing objecting to the Department's denial of Petitioner's MA application.

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 a February 12, 2019 application for MA benefits. On February 13, 2019, the Department issued to Petitioner a Verification Checklist seeking documentation showing Petitioner's income over the previous 30 days. The proofs were due by February 25, 2019. In the almost two weeks between February 13, 2019 and February 25, 2019, Petitioner repeatedly attempted to contact the Department in order to get some clarity as to what was being requested of her. On one day in particular, she waited over six hours on hold before hanging up, which she only did because the Department was no longer open. After not being able to contact the Department to figure out what exactly was being requested, Petitioner sent the Department everything she had on February 25, 2019. While it was placed in the mail that day, it was not received by the Department until February 28, 2019. While the documents were en route, the Department issued to Petitioner a Health Care Coverage Determination Notice denying Petitioner's application for MA benefits as a result of Petitioner's alleged failure to provide verifications related to her income.

For the MA programs involved, income is highly relevant for determining eligibility. BEM 500 (July 2017), p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative action notice when: (1) the client indicates a refusal to provide a verification OR (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department may only send negative case action where an individual indicates a refusal to provide verification or the time limit for providing the verification has passed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. Prior to the time limit passing, Petitioner had called the Department repeatedly in an effort to clarify what was needed and actually gathered the information and placed it in the mail. Based on the information, it is clear that Petitioner's effort to procure and provide the information prior to the deadline was reasonable. As such, the trigger for sending a negative action had not been activated. Thus, the Department's denial of Petitioner's application must be 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 did not act in accordance with Department policy when it denied Petitioner's February 12, 2019 application for MA 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. Reregister and process Petitioner's February 12, 2019 application for MA benefits;
2. If any eligibility-related factors are unclear, inconsistent, incomplete, or contradictory, seek verifications pursuant to Department policy;
3. Determine Petitioner's eligibility on the basis of the February 12, 2019 application;
4. Provide MA coverage Petitioner is eligible for from the time of application; and

