



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: January 22, 2020
MOAHR Docket No.: 19-013179
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 January 21, 2020 from Detroit, Michigan. Petitioner was represented by [REDACTED] Authorized Hearings Representative. The Department of Health and Human Services (Department) was represented by Silvester Williams, Assistance Payments Supervisor, and Leslie Bouldes, Eligibility Specialist. During the hearing, a 35-page packet of documents was offered and admitted as Exhibit A, pp. 1-35.

Upon receiving the request for hearing, the Department prepared a hearing summary and accompanying hearing packet and transferred the matter to the Michigan Office of Administrative Hearings and Rules for a hearing before an Administrative Law Judge. In the hearing summary, the Department indicated that Petitioner requested a hearing to contest Department actions concerning Medicaid (MA), Food Assistance Program (FAP), and Medicare Savings Program (MSP) benefits. However, at the outset of the hearing, Ms. [REDACTED] testified that she only requested a hearing to contest the Department's action concerning MSP benefits. After reading the request for hearing and listening to Ms. [REDACTED], it is clear that MSP is the only program at issue in this hearing.

ISSUE

Did the Department properly process Petitioner's August 28, 2019 application for MSP 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 MSP benefits. Exhibit A, pp. 13-31.
2. On the application, Petitioner designated [REDACTED] as his Authorized Representative. Petitioner further indicated that he had insurance through [REDACTED]. Exhibit A, pp. 20; 24.
3. Along with the application, Petitioner provided to the Department a document titled Authorization to Represent. Petitioner signed the document, which, by its terms, appointed [REDACTED] as his Authorized Representative. The document further detailed that [REDACTED] was acting as [REDACTED] agent in assisting Petitioner with the procurement of public benefits. Exhibit A, pp. 5-6.
4. On September 5, 2019, the Department contacted Petitioner to conduct a phone interview. During the phone interview, Petitioner indicated that he was not aware of [REDACTED] and wished to withdraw his application for benefits.
5. On September 5, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his application was denied as a result of his request to withdraw the application. Exhibit A, pp. 9-10.
6. At no point did the Department issue any of the important correspondence to Petitioner's Authorized Representative.
7. On [REDACTED], 2019, Petitioner's Authorized Representative submitted to the Department a request for hearing objecting to the delay in processing Petitioner's application for MSP benefits. As the Department did not issue any of the notices to the Authorized Representative, the Authorized Representative was not aware that the application was denied back in September 2019.

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, through his Authorized Representative, submitted to the Department an [REDACTED], 2019 application for MSP benefits. The [REDACTED], 2019 application designated [REDACTED] as Petitioner's Authorized Representative. The application was signed by Petitioner and accompanied by a document titled Authorization to Represent, which was also signed by Petitioner. That document also appointed [REDACTED] as Petitioner's Authorized Representative. On September 5, 2019, the Department called Petitioner directly for an interview. During that interview, Petitioner indicated that he wanted to withdraw his application. On September 5, 2019, the Department sent out a Health Care Coverage Determination Notice indicating that the application was denied because Petitioner withdrew. Notably, at no point did the Department notify Petitioner's Authorized Representative of the interview or the decision. After months of waiting and unreturned phone calls, Petitioner's Authorized Representative submitted a hearing request to dispute what it believed to be the Department's delay in processing Petitioner's application.

An authorized representative is a person who applies for assistance on behalf of the client and otherwise acts on the client's behalf. BAM 110 (April 2019), p. 9. An application for MA benefits received from an agency is acceptable if the application is signed by an individual and is accompanied by written documentation from the individual authorizing the agency to act as the authorized representative. BAM 110, p. 11. The authorized representative assumes all the responsibilities of the client. BAM 110, p. 9. To establish the client's eligibility, the authorized representative must be familiar enough with the circumstances to complete the application, answer interview questions, and collect needed verifications. BAM 110, p. 9.

The Department was obligated to correspond with Petitioner's Authorized Representative in this case. The Department's failure to do so led to the unfortunate present situation. As stated above, when someone validly appoints an authorized representative, that person then acts on the person's behalf. [REDACTED] was validly appointed Petitioner's Authorized Representative, yet the Department chose to keep them out of the loop during the entire process. Petitioner's actions in "withdrawing" the application are null and void as they were done without his validly designated Authorized Representative receiving any notice of any of the proceedings.

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 August 28, 2019 application for MSP benefits.

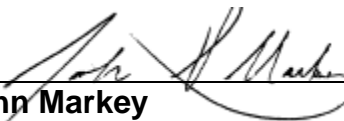
DECISION AND ORDER

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 MSP benefits;
2. If there are any eligibility-related factors that are unclear, inconsistent, incomplete, or contradictory, follow Department policies regarding verifications;
3. Determine Petitioner's eligibility for MSP benefits, including any retroactive months, if requested;
4. If Petitioner is eligible for additional benefits that were not provided, ensure that a supplement is promptly issued;
5. Ensure that all correspondence is issued to Petitioner's Authorized Representative; and
6. Notify Petitioner in writing of its decisions.

JM/tm



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

DHHS

Linda Gooden
25620 W. 8 Mile Rd
Southfield, MI
48033

Petitioner

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

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

cc: FAP: M. Holden; D. Sweeney
ME—D. Smith; EQADHShearings
Oakland County AP Specialist