



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: May 21, 2020  
MOAHR Docket No.: 20-001434  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm**

**DECISION AND ORDER**

Upon the Petitioner's March 2, 2020, hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 19, 2020.

Petitioner, ██████████, appeared and represented himself. Respondent, Department of Health and Human Services (Department), had Theresa Root, Appeals Review Officer, appear as its representative. The Department had one witness, Edward Kincaid, Specialist. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 22-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUE**

Did the Department properly deny Petitioner's Medicaid claims for services he received in October and November 2018?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Petitioner's date of birth is October 16, 1953.
2. In October and November 2018, Petitioner was enrolled in full-coverage Medicaid through the Department, and Petitioner received medical services at the University of Michigan hospital.

3. Petitioner was not enrolled in Medicare Part B at the time that he received medical services at the University of Michigan hospital.
4. The Department received Petitioner's Medicaid claims for the services he received at the University of Michigan hospital in October and November 2018.
5. The Department reviewed Petitioner's Medicaid claims, determined that Petitioner was eligible for Medicare Part B, and determined that Petitioner was not enrolled in Medicare Part B.
6. The Department denied Petitioner's Medicaid claims for services he received in October 2018 because Petitioner was eligible for Medicare Part B but not enrolled.
7. The University of Michigan hospital billed Petitioner for the services after the Department denied Petitioner's Medicaid claims.
8. On March 2, 2020, Petitioner requested a hearing to dispute the Department's decision to deny his Medicaid claims.

### **CONCLUSIONS OF LAW**

The Medical Assistance Program (MA) is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

The Medicaid Provider Manual contains the Department's policies related to Medicaid services. It states that providers cannot bill Medicaid beneficiaries for services, except in specific situations. *MDHHS Medicaid Provider Manual* (July 1, 2019), General Information for Providers Chapter, Section 11, p. 44. One of the situations in which a provider is permitted to bill a Medicaid beneficiary is when the Medicaid beneficiary has refused Medicare Part B. *Id.* In this case, the Department denied Petitioner's Medicaid claims because the Department determined that Petitioner was eligible for Medicare Part B but not enrolled. Petitioner's provider then billed Petitioner for those services.

Petitioner is disputing the Department's denial. Petitioner asserts that he did not refuse Medicare Part B, and Petitioner asserts that he was denied Medicare Part B when he initially tried to enroll. Petitioner has not met his burden to establish by a preponderance of the evidence that the Department did not properly deny Petitioner's Medicaid claims for services he received in October and November 2018.

Medicaid beneficiaries may apply for Medicare at any time. *Id.* at Coordination of Benefits Chapter, Section 2.6, p. 6. Medicaid Beneficiaries may be eligible once they turn 65 years old. *Id.* When a Medicaid beneficiary is eligible for Medicare Part B but

not enrolled, the Department denies claims submitted to it that should have been covered by Medicare Part B first. *Id.* at 11.

In this case, Petitioner turned 65 years old in October 2018. When Petitioner turned 65 and was not enrolled in Medicare Part B, the Department concluded that he was eligible for Medicare Part B but not enrolled. The Department's conclusion was reasonable. Although Petitioner testified that he tried to enroll for and was denied Medicare Part B, Petitioner did not present any corroborating evidence such as a denial letter. Thus, I must find that Petitioner did not present sufficient evidence to meet his burden.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Petitioner's Medicaid claims for services he received in October and November 2018.

**IT IS ORDERED THAT** the Department's decision is **AFFIRMED**.

JK/dh



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**Jeffrey Kemm**  
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 30763  
Lansing, Michigan 48909-8139

**DHHS -Dept Contact**

Carol Gates  
Customer Service Division  
P.O. Box 30479  
Lansing, MI 48909

**DHHS Department Rep.**

M. Carrier  
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PO Box 30807  
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**Petitioner**

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**Agency Representative**

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