



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: July 16, 2020
MOAHR Docket No.: 20-003762
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 July 14, 2020.

Petitioner was represented by [REDACTED] Authorized Representative, Appeals & Hearing Specialist with Change HealthCare of Weston, Florida. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Tamika Harris, APS.

The Department offered and had admitted Department Exhibit A.17.

Petitioner offered and had admitted Petitioner Exhibits I.1 and II.14.

ISSUE

Did the Department properly process Petitioner's MA part B 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's representative applied for the Medicare Savings Program on behalf of Petitioner.
2. On June 21, 2019, the Department issued correspondence to Petitioner while failing to send notification or communicate with Petitioner's representative regarding a

Healthcare Supplemental Questionnaire (DHS-1004) along with proofs due back to the Department by July 2, 2019. Exhibit A.

3. On July 31, 2019, the Department issued a Health Care Determination Notice; again, failing to notify or communicate with Petitioner's representative. The Notice denied Petitioner's application on the grounds that Petitioner failed to verify income and assets requested in the Healthcare Supplemental Questionnaire.
4. On September 18, 2019, Petitioner's representative filed an appeal of the denial. The local office failed to forward the appeal to MOAHR until April 20, 2020.
5. Petitioner qualifies for ALMB Part B Medicaid since June 1, 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, the Department stipulated at the administrative hearing that Petitioner's application was filed with a representative, which the Department had on file, and yet, the Department failed to correspond with the representative. Under 42 CFR 435.923(b)(3) and corresponding Department policy, the Department is required to communicate with an authorized representative directly and issue correspondence to that representative including any notices or request for information from the Department. Unrefuted evidence of record is that the Department failed to follow federal and state authorized representative requirements in this case. As such, the denial must be reversed.

The Department also stipulated that based on the asset and income verifications that the Department received from Petitioner's representative in August, 2019, Petitioner was eligible for ALMB Part B, and is owed supplemental Part B benefits beginning June 1, 2019 and continuing.

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 Medicare Savings Program.

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 June 1, 2019, Medicare Savings Program application, and
2. Open an ALMB Part B case on behalf of Petitioner beginning June 1, 2019, and
3. Correct Petitioner's case so that Petitioner's Part B benefits are properly issued and/or paid on behalf of Petitioner pursuant to the June 1, 2019 eligibility and continuing, and
4. Issue written notice to Petitioner's representative, informing Petitioner's representative as to how Petitioner's supplemental Part B benefits will be supplemented.

IT IS SO ORDERED.

JS/ml



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

Oakland (District 4 Pontiac-Woodward)
County DHHS – Via Electronic Mail

BSC4 – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

Authorized Hearing Rep.

[REDACTED] – Via First Class Mail
[REDACTED]
[REDACTED] FL [REDACTED]

Petitioner

[REDACTED] – Via First Class Mail
[REDACTED]
[REDACTED] MI [REDACTED]