



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

PEGGY SALAS
7558 MARSH RD
PLAINWELL, MI 49080

Date Mailed: March 10, 2021
MOAHR Docket No.: 20-008428
Agency No.: 127648892
Petitioner: Peggy Salas

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 February 18, 2021, from Lansing, Michigan. The Petitioner [REDACTED] appeared, testified, and was represented by [REDACTED] [REDACTED] Authorized Hearings Representative. The Department of Health and Human Services (Department) was represented by Susan Forman, Family Independence Manager.

Department Exhibit pages 1-38 were admitted as evidence.

ISSUE

Did the Department properly deny Petitioner's application for Medical Assistance (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] 2020, Petitioner filed a Medical Assistance application.
2. On July 31, 2020, the DHS-1004, a Health Care Coverage Supplemental Questionnaire was mailed to Petitioner and it was returned on August 31, 2020.
3. On page two of the questionnaire, Petitioner indicated that she received royalties from September 2019 to June 2020.
4. A verification of that income was not received.

5. On September 4, 2020, a DHS-3503 verification checklist was mailed to Petitioner, requesting verification of the checking account, gaming revenues and royalties.
6. On September 17, 2020, the bank statements were returned, but the gaming revenue and royalties were not verified.
7. On September 22, 2020, the Department denied Petitioner's application for failure to provide verification information and sent Petitioner notice of denial.
8. On December 14, 2020, Petitioner filed a request for hearing to contest the Department's negative action.
9. On December 28, 2020, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary.

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.

Pertinent Department policy dictates:

Clients have rights and responsibilities as specified in this item. The local office must do all of the following:

- Determine eligibility.
- Calculate the level of benefits.
- Protect client rights. BAM 105, page 1

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item.

Clients must completely and truthfully answer all questions on forms and in interviews.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information.

Clients must also cooperate with local and central office staff during quality control (QC) reviews. Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews. The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. Clients must also cooperate with local and central office staff during quality control (QC) reviews. BAM 105, page 9

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Specific penalties can be found in the applicable Bridges Eligibility Manual (BEM) and BAM items.

Refusal to provide necessary eligibility information or to cooperate with a QC review results in ineligibility for:

- The person about whom information is refused, and
- That person's spouse if living in the home, and
- That person's unmarried children under 18 living in the home. Note: Failure to cooperate with Social Security numbers (BEM 223), Child Support (BEM 255) or Third Party Resource Liability (BEM 257) requirements might disqualify a person but is not a refusal of necessary eligibility information. BAM 105, page 10

In this case, evidence on the record indicates:

Petitioner's information indicates that she did not receive forms until August 6, 2020, which was not enough time. Petitioner indicated that she received one royalty deposit in June. She provided online statements on her personal account with [REDACTED] [REDACTED] for the months of January 26, 2020, through August 25, 2020. No later statements have been issued. Petitioner stated that she has never received any gaming revenues from the Choctaw Nation or any other source. She explained that in 1906/1907 when Oklahoma became a state and dissolved the Choctaw Nation the Choctaw lands were divided by the federal government and the mineral rights have devolved to the tribe. She receives a small percentage of the proceeds which are minimal. Petitioner did not refuse to provide information. She did substantially comply with the Department's request.

The local office must assist clients who need and request help to complete the application form. The time limit to respond to requests for help completing the application form depends on the circumstance:

- For clients in the local office, respond within one workday.
- For clients who send a letter, respond by a return letter or phone call within five workdays.
- For clients who telephone, respond by either of the following:
 - o Return phone call within one workday.
 - o Send letter within five workdays.

When help cannot be provided by phone call or letter within specified time frames, complete a home call within five workdays.

The local office must have designated staff to make home calls to help complete applications in all the following:

- Sufficient help cannot be provided by telephone or letter.
 - The client is physically unable to come to the office.
 - The client has no one else to help or to come to the office on his/her behalf.
- BAM 115, page 2.

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 application. Petitioner explained her problems. The Department is supposed to assist people. At the hearing Petitioner sounded elderly and confused. Her authorized hearings representative sounded elderly and confused about the issues.

DECISION AND ORDER

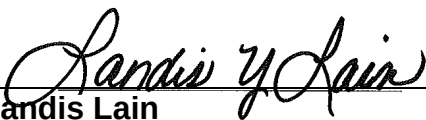
Accordingly, the Department's decision is **REVERSED**.

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 Medical Assistance application to the [REDACTED], 2020, application date;
2. Assist Petitioner in gathering information about her royalties;

3. Redetermine Petitioner's eligibility for Medical Assistance Program benefits; and,
4. If Petitioner is otherwise eligible, open an ongoing Medical Assistance Program case for Petitioner.

LL/hb



Landis Lain
Administrative Law Judge
for Elizabeth Hertel, 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

Barry County via electronic mail

BSC3 via electronic mail

C. George via electronic mail

EQADHShearings via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]