



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: December 12, 2019
MOAHR Docket No.: 19-011317
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 November 14, 2019, from Detroit, Michigan. The Petitioner was represented by Katie Ringler, Esq. The Department of Health and Human Services (Department) was represented by Kelley T. McLean, Assistant Attorney General. Jacqueline Dorsey, Eligibility Specialist, also appeared on behalf of the Department.

ISSUE

Did the Department properly determine Petitioner ineligible for Medical Assistance (MA) benefits effective November 1, 2019, for failure to submit timely verification of a banking account?

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 August 24, 2019, the Asset Detection Unit discovered that Petitioner had a previously unknown checking account.
2. Petitioner's guardian was unaware of the checking account until notice was received by the Department.
3. On September 9, 2019, the Department sent Petitioner's guardian a Verification Checklist (VCL) requesting a current statement relating to a Citizens Bank account.

4. The proofs were due on or before September 19, 2019.
5. Petitioner's guardian was not authorized to control her financial assets and was denied access to the account by the bank.
6. Petitioner's guardian requested an extension, which was granted.
7. The extended due date of the proof was September 30, 2019.
8. Petitioner's guardian filed a Petition for Protective Order with the Probate Court seeking an order allowing access to Petitioner's banking information.
9. The Probate set a hearing date for October 23, 2019.
10. No additional extensions were requested.
11. The proofs were not received by September 30, 2019.
12. On October 2, 2019, the Department sent Petitioner's guardian a Health Care Coverage Determination Notice which indicated that Petitioner was not eligible for MA benefits, effective November 1, 2019.
13. On October 9, 2019, Petitioner's guardian filed a request for hearing disputing the Department's actions.

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's Asset Detection Unit discovered a checking account owned by Petitioner. As such, the Department sent a VCL requesting verification of the banking account. The Department testified that it granted an extension and did not receive the proofs by the extended due date. Under Department policy, Petitioner's guardian could have requested two additional extensions. BAM 130, (April 201), p. 8.

However, the Affidavit, which was admitted into evidence, indicated that a hearing with the Probate Court to allow access to the bank account was scheduled for October 23, 2019. Each extension only allows for 10 additional days; and therefore, the due date for any additional extensions would have elapsed prior to the October 23, 2019 hearing date.

Under Department policy in other programs such as (cash assistance, child daycare and food assistance), the Department sends a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed **and the client has not made a reasonable effort to provide it.** BAM 130, p. 7. [Emphasis added].

However, in MA cases, the Department sends a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed. BAM 130, p. 8.

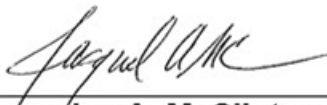
As such, policy requires the Department to send the negative action once the time period has elapsed in MA cases regardless of any reasonable efforts made by the client and or his/her representative. As previously stated, the verification of the banking account was due on or before September 30, 2019. The verifications were not received by the due date. As such, the Department properly sent the negative action advising that Petitioner was not eligible for MA benefits. The closure was effective November 1, 2019. Petitioner's guardian can file a new MA application and request retroactive coverage for the prior three months.

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 acted in accordance with Department policy when it determined that Petitioner was ineligible for MA benefits effective November 1, 2019, for failure to timely verify the requested banking account.

DECISION AND ORDER

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

JAM/jaf



Jacquelyn A. McClinton
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

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