



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 22, 2019
MAHS Docket No.: 19-000794
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 March 14, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Andrea Edwards, Hearings Facilitator. During the hearing, a 13-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-13.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) benefits, effective November 1, 2018?

FINDINGS OF FACT

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

1. During the entire year of 2018, Petitioner had subsidized healthcare coverage through the federal marketplace.
2. On [REDACTED], 2018, Petitioner started an application for healthcare coverage through the federal marketplace for the year 2019. Petitioner did not finish the application as she needed more information regarding her income from her accountant. Petitioner saved the application and intended to return later to finish. Exhibit A, pp. 5-6.

3. The federal marketplace application was transferred to the Department on or about November 20, 2018. On November 21, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was eligible for full-coverage MA under the Healthy Michigan Plan (HMP), effective November 1, 2018. Exhibit A, pp. 7-9.
4. Immediately upon receiving the Health Care Coverage Determination Notice, Petitioner notified the Department that she did not file an application for MA benefits and that she did not even submit the application that led to the Department's action. Petitioner requested the Department undo its determination. Petitioner was concerned that the Department's inexplicable action would cause her to incur substantial tax penalties for having coverage during a month in which she was receiving subsidized healthcare coverage through the federal marketplace.
5. On November 29, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA benefits case was closing, effective December 1, 2018. Exhibit A, pp. 10-13.
6. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions in this case.

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 objects to the Department's decision to provide her MA benefits under the HMP for the month of November 2018. Petitioner had subsidized healthcare coverage through the federal exchange for the entire year 2018. Petitioner did not submit an application to the Department. She did not want MA benefits from the Department. Rather, Petitioner saved an incomplete, in-progress 2019 federal marketplace application on [REDACTED] 2018 that was then forwarded to the Department, which then determined, based on the incomplete and unsigned application not submitted to anyone, that Petitioner was eligible for HMP for November 2018 ongoing. When Petitioner received notice of this action, she immediately sought to

have it undone. The Department closed Petitioner's MA benefits case, effective December 1, 2018. However, the Department's action left Petitioner with her MA coverage for the month of November 2018.

An application or filing form must be registered with the receipt date if it contains at least the following information: (1) name of the applicant; (2) birth date of the applicant; (3) address of the applicant; and (4) signature of the applicant or authorized representative. BAM 105 (January 2018), p. 1. An application including those elements must be registered even if it does not contain enough information to determine eligibility. BAM 105, p. 1. If it does not contain all of those elements, the Department is required to send it back to the client along with a Notice of Missing Information. BAM 105, p. 1. When an assistance application is received without the client's signature, the Department must provide a Notice of Missing Information and give the client ten days for a response. BAM 110 (October 2018), p. 11.

Petitioner never submitted an application to the Department. At the hearing, the Department presented a two-page document purporting to be Petitioner's application for MA benefits. That document contains Petitioner's name, birthday, and address. However, nowhere does the purported application contain a signature. While it is true that the federal application for health coverage is acceptable for any MA category, certainly one must actually submit the application somewhere for the application to be acceptable. BAM 105, p. 2. Petitioner never submitted the document.

The document the Department treated as Petitioner's MA application was not a valid application, and the Department erred in processing it as though it was. Because there was no valid application for benefits, Petitioner was wrongfully determined by the Department to be eligible for HMP in November 2018. Petitioner never asked for that coverage, and the Department had no authority to provide that coverage. Accordingly, the Department's November 21, 2018 Health Care Coverage Determination Notice is reversed. Petitioner is not eligible for MA benefits from the Department at any point in 2018 as she never applied for those benefits. The document used by the Department as an application was never submitted to anyone and even if it was, did not contain sufficient information to determine eligibility.

From the day she received notice that she even had any kind of benefits case with the Department, Petitioner diligently sought to prevent this situation from snowballing as she knew that if the Department issued tax forms saying that Petitioner had coverage for any period of 2018, Petitioner was going to suffer rather substantial tax penalties for receiving a subsidy for marketplace coverage for that month. Sure enough, Petitioner received tax forms from the Department showing that she had coverage for November 2018. As of the issuance of this order, the Department's decision to provide Petitioner with Department-issued healthcare coverage for November 2018 is reversed. This entire case was opened in error, and this decision corrects that error as though it never happened. Thus, while it is not within the undersigned's authority to ensure, this matter with the Department should have no impact on Petitioner's marketplace subsidies or taxes.

DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it found Petitioner eligible for MA benefits, effective November 1, 2018.

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. The Department shall properly consider Petitioner to have never submitted an application for MA benefits;
2. The Department shall accurately update its records to reflect that Petitioner was not eligible for MA benefits in November 2018;
3. The Department is prohibited from seeking collection of any alleged overissuance of MA benefits from Petitioner related to the improperly provided benefits at issue in this case; and
4. The Department shall ensure that appropriate documentation is timely provided that accurately reflects the fact that Petitioner did not have Department-issued MA benefits for November 2018.

JM/cg



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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-St. Clair- Hearings
D. Smith
EQAD
BSC2- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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