



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: April 9, 2019
MAHS Docket No.: 19-001342
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 April 1, 2019, from Detroit, Michigan. The Petitioner appeared for the hearing and was represented by her Authorized Hearing Representative [REDACTED]. The Department of Health and Human Services (Department) was represented by Antoinette Rance, Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's application for the Medicare Savings Program (MSP)?

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 September 5, 2018, Petitioner submitted an application for Medical Assistance (MA) Program and MSP benefits which included a retroactive application for March through May of 2018 and listed [REDACTED] as her Authorized Representative (AR).
2. On November 8, 2018, Petitioner submitted a second application for MA, MSP, and Food Assistance Program (FAP) benefits.

3. On the same day, the Department issued a Health Care Coverage Supplemental Questionnaire (HCCSQ) to Petitioner, but not to her AR, which was to be completed and returned to the Department by November 28, 2018.
4. On November 28, 2018, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner, but not her AR, notifying her that she was not eligible for the MSP because she “does not meet basic criteria for Medicare Savings Program” and because she was “not under 21, pregnant, or a caretaker of a minor child” in her home and was not over age 65, blind, or disabled.
5. On February 1, 2019, the Department issued a second HCCDN to Petitioner, but not to her AR, informing her that she was not eligible for the MSP “for the month tested because it is in the previous year,” because her “income exceeds the limit for this program,” and because she did not provide the documentation requested by the local office.
6. On February 4, 2019, the Michigan Administrative Hearing System (MAHS) received a hearing request from Petitioner’s AR disputing the Department’s failure to process Petitioner’s MSP applications and appointing an Authorized Hearings Representative.
7. On February 7, 2019, MAHS forwarded the hearing request to the Department.

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.

As a preliminary matter, Petitioner’s AR requested a hearing on behalf of Petitioner. Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2018), p. 2. An AHR is defined as a person who stands in for or represents the client in the hearing process and has the legal right to do so through one of the following sources:

- Written authorization, signed by the client, giving the person the authority to act for the client in the hearing process.
- Court appointment as a guardian or conservator.
- The representative's status as the legal parent of a minor child.
- The representative's status as attorney at law for the client.
- For MA only, the representative's status as the client's spouse or the deceased client's widow or widower, only when no one else has authority to represent the client's interest in the hearing process.

BPG Glossary (July 2018), p. 7. An AHR has no right to a hearing, but rather has the ability to exercise the client's right. *Id.* Someone who assists, but does not stand in for or represent the client in the hearing process need not be an AHR. *Id.*

An Authorized Representative (AR) is a person who makes application or provides eligibility information on behalf of a client and/or otherwise acts on the client's behalf. *Id.*; BAM 110 (January 2019), p. 9.

In the present case, the Department received an Application listing [REDACTED] as an AR for Petitioner. The Department then received a request for hearing from the AR which attempted to appoint an AHR. Policy provides that hearings will be granted when signed by the client, an adult member of the group, or an AHR. Policy does not allow an AR to request a hearing. Since an AR cannot sign a hearing, it follows that an AR cannot appoint an AHR. However, in this case, because Petitioner appeared for the hearing, she was able to verify and authorize the participation of [REDACTED] as her AHR. Therefore, this decision will proceed to the underlying issues of the case.

In this case, Petitioner's MSP benefits were denied for multiple reasons in two HCCDN but the Department failed to issue notice of the HCCDN and the HCCSQ to Petitioner's AR. MSP is an SSI-related MA category. An AR assumes the same responsibility of a client. BAM 110, p. 9. In all cases, when the Department issues documentation either

requesting information or notifying a client of a decision, the Department is also required to send the AR the same documents. Since the Department failed to issue the HCCDN and the HCCSQ to Petitioner's AR, the Department did not act in accordance with Department policy.

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 failed to issue the HCCSQ and HCCDN to Petitioner's AR.

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 and redetermine Petitioner's application and retroactive application for MSP benefits effective September 5, 2018;
2. If otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received based upon the September 5, 2018 application;
3. If Petitioner is not eligible based upon the September 5, 2018 application, reinstate and redetermine Petitioner's eligibility based upon the November 8, 2018, application;
4. If otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received based upon the November 8, 2018 application; and,
5. Notify Petitioner in writing of its decision.



AMTM/jaf

Amanda M. T. Marler
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

DHHS

Montrece White
MDHHS-Macomb-20-Hearings

Petitioner

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

Authorized Hearing Rep.

[REDACTED]
[REDACTED] FL [REDACTED]

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