



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: April 23, 2019  
MOAHR Docket No.: 19-002363  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 18, 2019, from Detroit, Michigan. Petitioner was represented by Independent Medical Networks, Inc. (IMNI). Present on behalf of IMNI was Linda Balakian-Blake. The Department of Health and Human Services (Department) was represented by Crystal Hackney, Assistance Payments Supervisor.

### **ISSUE**

Did the Department fail to properly process Petitioner's applications 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 July 16, 2018, an application for MA benefits was submitted on behalf of Petitioner for MA coverage effective July 1, 2018 (Exhibit E).
2. On September 7, 2018, an application for MA benefits was submitted on behalf of Petitioner for MA coverage effective July 1, 2018 (Exhibit D).
3. On October 10, 2018, an application for MA benefits was submitted on behalf of Petitioner for MA coverage effective July 1, 2018 (Exhibit A).

4. On October 19, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that her daughter was not eligible for MA benefits effective November 1, 2018, ongoing (Exhibit C).
5. On March 4, 2019, Petitioner's AHR submitted a request for hearing alleging the Department failed to properly process Petitioner's MA applications.

### **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, MA applications were submitted on Petitioner's behalf on July 16, 2018; September 7, 2018; and October 10, 2018. All three applications requested retroactive MA benefits effective July 1, 2018, ongoing.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (October 2018), p. 15. For MA cases, the Department must certify program approval or denial of the application within 45 days. BAM 115, p. 16. Exceptions include: (i) 15 days for all pregnant MA applicants; (ii) 30 days for Refugee Medical Assistance (RMA) applicants; (iv) 90 days for MA categories in which disability is an eligibility factor. BAM 115, pp. 16-17.

The Department testified that the only notice issued related to Petitioner's MA benefit case was the HCCDN sent on October 19, 2018, stating Petitioner's daughter was not eligible for MA benefits as of November 1, 2018. No decision has been issued related to Petitioner for any of the applications submitted. The Department is well beyond the SOP for all three of Petitioner's MA benefit applications. Therefore, the Department did not act in accordance with policy when processed Petitioner's MA benefit applications.

### **DECISION AND ORDER**

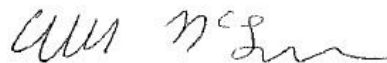
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not

act in accordance with Department policy when it processed Petitioner's MA benefit applications.

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. Redetermine Petitioner's MA eligibility as of July 1, 2018, ongoing;
2. If Petitioner is eligible for MA benefits, provide her with coverage she is entitled to receive as of July 1, 2018, ongoing; and
3. Notify Petitioner and Petitioner's AHR of its decision in writing.



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**Ellen McLemore**

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**

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MDHHS-Oakland-6303-Hearings

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