



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: July 26, 2019
MOAHR Docket No.: 19-005531
Agency No.: ██████████
Petitioner: ██████████

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 July 22, 2019, from Detroit, Michigan. Petitioner was present with her Authorized Hearing Representative (AHR), ██████████. Also present with Petitioner was ██████████ and ██████████. The Department of Health and Human Services (Department) was represented by Mark Boyd, Family Independence Manager.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) application?

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 ██████████, 2019, Petitioner's AHR submitted an application for MA benefits on behalf of Petitioner.
2. On March 6, 2019, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's assets (Exhibit A, pp. 7-8).
3. On March 6, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that her MA benefit case was closing effective February 2, 2019, ongoing (Exhibit A, pp. 4-5).

4. On [REDACTED], 2019, Petitioner's AHR submitted 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, Petitioner was an ongoing MA recipient under the Group 2 SSI-related (G2S) MA program. On January 3, 2019, the Department sent Petitioner a HCCDN informing her that her MA benefits were closing effective February 1, 2019, ongoing. The Department testified that Petitioner was undergoing an annual review in December 2018. The Department stated that Petitioner/Petitioner's AHR failed to submit requested verifications related to a VCL that was sent in December 2018. Petitioner's AHR learned of the closure and submitted a new MA application on [REDACTED], 2019. The Department sent Petitioner's AHR a VCL on March 6, 2019, requesting verification of Petitioner's assets. Proofs were due by March 18, 2019.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. The Department sends a negative action notice when: the client indicates a 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.

The Department testified that Petitioner's MA benefit application was denied because she was determined as income ineligible for MA benefits under the Healthy Michigan Plan (HMP) program. The Department stated that Petitioner's eligibility was not determined under any SSI-related MA programs, because she failed to submit the requested verifications. Petitioner's AHR testified that she began submitting the requested verifications on February 5, 2019.

The Department's testimony was extremely confusing. Petitioner does not qualify for HMP benefits, as she is a Medicare recipient. BEM 137 (January 2018), p. 1. Additionally, the Department sent Petitioner the HCCDN informing her of the denial of the application on the same date that the VCL was sent. Per policy, a client has 10 days to return the requested information from the date of the VCL. As such, the Department did not properly follow policy when denying Petitioner's MA application.

Additionally, the Department testified that it discovered that the March 6, 2019 VCL was sent to the incorrect address. The Department stated that Petitioner's MA application was reinstated, but subsequently closed for her failure to meet the deductible under the G2S program.

The Department will renew eligibility for active deductible cases at least every 12 months unless the group has not met its deductible within the past three months. BEM 545 (October 2018), p. 12. If a group has not met its deductible in at least one for the three calendar months before that month and none of the members are eligible for Medicare Savings Program (MSP) benefits, the Department will automatically notify the group of closure. BEM 545, p. 12.

Again, the Department's testimony was confusing. The Department stated that Petitioner was sent a HCCDN in January 2019, closing her MA benefit case effective February 1, 2019. Petitioner's AHR submitted a new application. Therefore, the Department's explanation as to why the application was subsequently denied does not comply with policy, as Petitioner was not an ongoing MA recipient. Therefore, the Department did not act in accordance with policy when it denied Petitioner's MA application.

DECISION AND ORDER

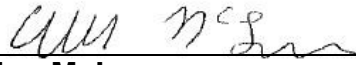
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Petitioner's MA application. Accordingly, the Department's decision is **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. Reinstatement and reprocess Petitioner's [REDACTED], 2019 MA application;
2. If Petitioner is eligible for MA benefits, provide her with coverage she is eligible to receive; and

3. Notify Petitioner's AHR of its decision in writing.

EM/cg



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

Via Email:

MDHHS-Wayne-57-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

**Counsel for Petitioner –
Via First-Class Mail:**

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**Petitioner –
Via First-Class Mail:**

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