



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 23, 2019
MOAHR Docket No.: 19-007405
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 August 21, 2019 from Detroit, Michigan. Petitioner was represented by [REDACTED], Authorized Hearing Representative. The Department of Health and Human Services (Department) was represented by LaShona Callen, Assistance Payments Supervisor.

ISSUE

Did Petitioner submit to the Department an application for Medicaid (MA) benefits in January 2019, and if so, did the Department properly process said 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 [REDACTED] 2019, [REDACTED] Petitioner's Authorized Representative, sent a 31-page fax to (517)346-9888. The fax was successfully transmitted and had the subject of "REF: [REDACTED]"
2. (517)346-9888 is a Department fax number where applications and other submissions are accepted.
3. The Department has no record of receiving any correspondence regarding Petitioner's case on or around [REDACTED], 2019.

4. In early May 2019, [REDACTED] became aware that the Department did not have record of the [REDACTED], 2019 filing.
5. On [REDACTED] 2019, another copy of the [REDACTED] 2019 document was provided to a Department worker.
6. The Department has no record of receiving any correspondence regarding Petitioner's case on or around May 31, 2019.
7. In June 2019, [REDACTED] became aware that the Department did not have record of either the [REDACTED] 2019 or [REDACTED], 2019 filings.
8. On [REDACTED] 2019, [REDACTED] submitted a request for hearing on behalf of Petitioner alleging that the Department violated law and policy by failing to process Petitioner's [REDACTED], 2019 filing, which [REDACTED] asserted was an application for MA benefits.

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, through her Authorized Hearing Representative, alleges that the Department has violated law and Department policy by failing to timely process her alleged [REDACTED], 2019 application for MA benefits. The Department's position is that there was no application filed that required it take any action.

After reviewing the record in this matter, it is found that Petitioner submitted an application for MA benefits on [REDACTED] 2019 through her Authorized Representative, [REDACTED]. A fax confirmation shows that 31 pages of documents were successfully transmitted to a Department fax number on [REDACTED], 2019 with a subject that included Petitioner's name. Despite evidence documenting that the Department did in fact receive a submission that should have been placed into Petitioner's case file, the Department's case file reflects that the Department did not receive anything on or around that date. Based on those two facts, it appears as though the Department received the submission but mistakenly failed to input the

submission into Petitioner's file. After numerous attempts to get the Department to address the [REDACTED] 2019 application, including resubmitting it in [REDACTED] 2019, Change Healthcare submitted a July 8, 2019 request for hearing objecting to the Department's failure to process the application.

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). BAM 600 (October 2018), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

When an individual applies for MA benefits, the Department must certify program approval or denial of the application within 45 days of receipt. BAM 115 (January 2019), p. 16. The Department must determine eligibility within that time frame unless the Department cannot reach a decision due to a failure to act by the applicant or there is an administrative or other emergency beyond the Department's control. 42 CFR 435.912(e).

In this case, there was no written notice of case action issued within the 90 days prior to Petitioner's hearing request. Ordinarily, that would require the dismissal of the hearing request for untimeliness. However, this hearing request was based on the Department's failure to act with reasonable promptness upon receiving the [REDACTED], 2019 application. It is found that the undersigned Administrative Law Judge has jurisdiction over this valid hearing request and that the Department violated law and policy, specifically BAM 115 and 42 CFR 435.912, by failing to process Petitioner's application in a timely manner.

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 process Petitioner's [REDACTED] 2019 application for MA benefits.


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. Process Petitioner's [REDACTED], 2019 application for MA benefits;
2. If there are any eligibility-related factors that are unclear, inconsistent, contradictory, or incomplete, follow Department policy in gathering verifications;
3. Determine Petitioner's eligibility for MA benefits from the date of application, ongoing;
4. If Petitioner requested retroactive MA benefits for months before January 2019, determine Petitioner's eligibility for the period requested;
5. If Petitioner is eligible for addition benefits that were not provided, ensure that a supplement is promptly issued; and
6. Notify Petitioner in writing of its decisions.

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 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-Oakland-3-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

**Authorized Hearing Rep. –
Via First-Class Mail:**

[REDACTED]
[REDACTED]
[REDACTED]

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

[REDACTED]
[REDACTED]
[REDACTED]