



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]
[REDACTED]

Date Mailed: September 13, 2019
MOAHR Docket No.: [REDACTED]
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 September 11, 2019, from Detroit, Michigan. The Petitioner was represented by his son with Power of Attorney, [REDACTED] (POA). The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) Program 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 May 24, 2019, an MA Application was submitted on Petitioner's behalf listing several assets, sources of income, and expenses.
2. On Jun 3, 2019, the Department issued a Verification Checklist (VCL) to Petitioner and his POA requesting proof of the following items by June 13, 2019:
 - a. [REDACTED] Bank account ending in 6023 for the period March 12, 2019 through June 3, 2019;
 - b. [REDACTED] Bank account ending 2135 for the period March 28, 2019 through June 3, 2019;

- c. Verification of any transactions from either account greater than \$1,000.00;
 - d. Irrevocable Burial Contract because the previously provided copy was unreadable;
 - e. Verifications of the funds surrendered for the [REDACTED] Policy ending in 4311;
 - f. Written Statement of the value of a patient trust or cash on hand;
 - g. Retroactive Application for April 2019; and,
 - h. Whole Life Non-Participating policy.
3. On June 13, 2019, Petitioner's POA and the Department spoke regarding the need for an extension to obtain verifications; an extension was provided but no definite deadline was set according to Petitioner's POA.
 4. On July 1, 2019, the Department still had not received the requested documentation so a Health Care Coverage Determination Notice (HCCDN) was issued to Petitioner and his POA informing them that Petitioner's MA Application had been denied because the requested items had not been received by the Department.
 5. On July 30, 2019, the Department received Petitioner's request for hearing disputing the denial of his MA Application signed by his POA.

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's POA requested a hearing to dispute the Department's denial of Petitioner's MA Application based upon a failure to verify requested information. The Department is required to verify certain items at application, redetermination, and when changes are reported. BAM 130 (April 2017), p. 1. When requesting verification of an item, the Department is required to tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. In MA cases, the Department is required to provide the client with ten calendar days to provide any requested verifications. BAM 130, p. 8. If the client cannot provide the verification despite a reasonable effort, the time limit may be extended up to two times if the client requests the extension, there is a need for an extension despite reasonable efforts, and the Department has made efforts to assist the client. *Id.* Verifications are considered timely if received by the date they are due. *Id.* Case action notices are sent when a client indicates a refusal to provide a verification or when the time period given has lapsed. *Id.*

The Department sought verification of multiple items from Petitioner all of which were related to his assets, except the April 2019 Retroactive MA Application. In order to determine MA eligibility for individuals in Long-Term Care (LTC), the Department must verify assets. BEM 402 (January 2019); BEM 405 (January 2019). Therefore, the Department's request to verify each item was in accordance with Department policy.

When the Department initially requested the items, the Department properly identified all of the necessary items, and provided Petitioner and his POA with ten days to comply. On the due date, Petitioner's POA spoke with Petitioner's case worker and received an extension due to difficulties in obtaining the Burial Contract. While no specific deadline was provided according to Petitioner's POA, the Department may only grant two extensions for a total of 20 additional days to provide verification. The documents were originally due on June 13, 2019. One extension would have given Petitioner's POA until June 23, 2019 to provide the documentation. Two extensions would have provided Petitioner's POA until July 3, 2019. Since no evidence was presented by the Department that a specific deadline was provided to Petitioner's POA when the extension was granted and because the Department could have granted an extension up until July 3, 2019, the Department prematurely denied Petitioner's Application for MA benefits on July 1, 2019.

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 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. Reinstate Petitioner's Application and Retroactive Applications for MA benefits;
2. Redetermine Petitioner's eligibility for MA benefits;
3. Issue supplements to Petitioner or on his behalf for benefits not previously received; and,
4. Notify Petitioner and his POA in writing of its decision.



AM/tm

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 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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]