



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: October 11, 2019  
MOAHR Docket No.: 19-009374  
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 October 9, 2019 from Detroit, Michigan. Petitioner was represented by [REDACTED], Authorized Hearing Representative. The Department of Health and Human Services (Department) neglected to appear for the hearing.

**ISSUE**

Did the Department properly process Petitioner's April 2, 2019 and May 7, 2019 applications for retroactive Medicaid (MA) coverage?

**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 and [REDACTED], 2019, Petitioner submitted to the Department applications for MA coverage. The applications specifically requested ongoing coverage along with retroactive coverage going back to March 1, 2019.
2. The Department apparently did nothing with Petitioner's applications for many months.
3. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's failure to process the request for coverage.

4. On August 22, 2019, the Department finally took action and approved Petitioner's application for MA coverage back to April 1, 2019. However, the Department neglected to adjudicate Petitioner's eligibility for March 2019, as requested on both 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, Petitioner submitted to the Department applications for MA benefits on [REDACTED] 2019 and [REDACTED], 2019. In addition to requesting prospective coverage, Petitioner's applications requested retroactive MA coverage back to March 1, 2019. The Department did not do anything to address Petitioner's request until after Petitioner filed the hearing request on [REDACTED], 2019. On August 22, 2019, the Department issued a Health Care Coverage Determination Notice approving Petitioner for MA coverage back to April 1, 2019. Notably, the Department has never addressed Petitioner's clear and unambiguous request for retroactive MA benefits for the month of March 2019.

Retroactive MA coverage is available back to the first day of the third calendar month prior to the application filing date. BAM 115 (January 2019), p. 12. 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, 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). Additionally, for retroactive MA and MSP requests, the Department must make a determination of eligibility for each of the months requested. BAM 115, p. 13.

This case is very simple. Petitioner applied for retroactive MA benefits on [REDACTED], 2019 and [REDACTED], 2019. On each of those applications, Petitioner requested retroactive coverage back to March 1, 2019. As of the date of the hearing, the Department had not made any determinations with respect to Petitioner's MA eligibility for the requested month of March 2019. Law and Department policy require the Department to determine eligibility for that month.

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 [REDACTED], 2019 and [REDACTED] 2019 applications for retroactive MA benefits back to March 2019.

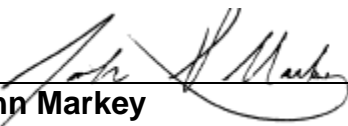
**DECISION AND ORDER**

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. Reprocess Petitioner's [REDACTED], 2019 and [REDACTED], 2019 applications for retroactive MA benefits for the month of March 2019;
2. Determine Petitioner's eligibility for MA benefits for the month of March 2019; and
3. Notify Petitioner and Petitioner's Authorized Representative of its decisions in writing.

JM/cg

  
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**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-Washtenaw-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]