



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: December 11, 2019  
MOAHR Docket No.: 19-010474  
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 November 12, 2019 from Detroit, Michigan. Petitioner was represented by [REDACTED], Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Hiva Murray, Family Independence Specialist. During the hearing, a 12-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-12.

**ISSUE**

Did the Department properly process Petitioner's [REDACTED] 2019 application for Medicaid (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. In mid-2019, Petitioner incurred substantial medical bills.
2. On [REDACTED] 2019, Petitioner submitted to the Department an application for MA benefits. On the application, Petitioner requested retroactive coverage for the months of June and July 2019. Petitioner intended to request retroactive coverage for the month of May 2019 as well. However, the copy of the application shows that May 2019 was not selected. Exhibit A, pp. 8-12.

3. On [REDACTED] 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that he was approved for full-coverage MA benefits, effective [REDACTED], 2019, ongoing.
4. When Petitioner received the [REDACTED], 2019 Health Care Coverage Determination Notice, Petitioner was confused because it did not address the three months of retroactive coverage Petitioner believed he requested.
5. While still in the month of August 2019, Petitioner's Authorized Representative, Ms. [REDACTED] called the Department and left messages at least four times to inquire as to the status of the request for retroactive MA benefits back to May 2019. None of those calls or messages were returned by the Department.
6. Ms. [REDACTED] continued to try to reach the Department after the end of August 2019.
7. On [REDACTED] 2019, Ms. [REDACTED] finally spoke with someone at the Department. During the conversation, Ms. [REDACTED] inquired into the status of the request for MA coverage back to May 2019. Ms. [REDACTED] was informed by the Department that because the application did not request May 2019 coverage and it was now September 2019, it was too late to request coverage for May 2019.
8. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action.
9. On [REDACTED] 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his request for retroactive MA benefits was approved for June and July 2019.

### **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 objected to the Department's failure to provide retroactive MA benefits back to May 2019. Petitioner had submitted to the Department an [REDACTED] 2019 application for MA benefits. Included therein was a request for retroactive MA benefits to cover medical bills incurred in the months prior to the application. Petitioner intended to request retroactive benefits back to May 2019. However, for whatever reason, the application only requested retroactive benefits for June and July 2019.

On [REDACTED], 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that he was approved for MA benefits, effective [REDACTED], 2019. As the adjudication did not address the request for retroactive coverage, Petitioner's Authorized Representative, Ms. [REDACTED] immediately began reaching out to the Department. During the month of August 2019, Ms. [REDACTED] called the Department and left at least four messages requesting assistance with the issue. In at least one of the August messages, Ms. [REDACTED] specifically asked why the Department was not providing MA coverage back to May 2019, like she believed was requested. None of the phone calls were returned.

Despite the complete lack of communication, Ms. [REDACTED] remained diligent. On September 17, 2019, Ms. [REDACTED] was finally able to speak with someone from the Department. During the conversation, Ms. [REDACTED] inquired into the status of the request for MA coverage back to May 2019. Ms. [REDACTED] was informed by the Department that because the application did not request May 2019 coverage and it was now September 2019, it was too late to request coverage for May 2019.

On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing challenging the Department's inaction on the retroactive application and failure to communicate in a meaningful manner. On [REDACTED], 2019, the Department finally processed Petitioner's application for retroactive benefits and approved Petitioner for the months of June and July 2019. However, because May 2019 was not selected on the application, Petitioner did not receive retroactive coverage for that month.

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. While an application is valid, the client may update the current application if it can be done without obliterating the previous information. BAM 115, p. 15.

While Petitioner may have made a mistake when filing the application by failing to request retroactive benefits back to May 2019, the blame for the ultimate denial of MA

benefits for that month is most appropriately laid at the feet of the Department. Petitioner had requested retroactive benefits back to June 2019, yet the Department's [REDACTED] 2019 Health Care Coverage Determination Notice failed to address June 2019 and July 2019. Those months were addressed via an [REDACTED], 2019 Health Care Coverage Determination Notice, which notably was beyond the standards of promptness.

When Ms. [REDACTED] realized that there was an issue all the way back in mid-August 2019, she began diligently reaching out to the Department to seek help with the situation. The messages she left with the Department clearly and unambiguously communicated to the Department that she wanted to know the status of the application for retroactive benefits, which she believed at the time to go back to May 2019. Petitioner's repeated calls and requests for assistance were ignored.

The time limit to respond to telephone requests for help completing an application require the Department to either place a return call within one day or send a letter within five days. BAM 115, p. 2. The Department's failure to even come close to meeting this standard resulted in Petitioner being unable to update the application to add May 2019 while it was still possible. Once Ms. [REDACTED] finally talked to the Department on September 17, 2019, it was too late to add May as it was more than three calendar months prior. However, the request for retroactive MA benefits to May 2019 was made in August 2019, albeit verbally. Petitioner should have had the opportunity to update the MA application in writing, per policy. The only reason that did not happen is because the Department neglected to communicate with Petitioner's Authorized Representative for about one month. It is found that, under these circumstances, Petitioner made a valid request for retroactive MA benefits for the month of May 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 processed 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 application for retroactive MA benefits for May 2019;
2. If any eligibility-related factors are unclear, inconsistent, contradictory, or incomplete, follow Department policy regarding verifications;

3. If Petitioner is eligible for additional benefits, ensure that a prompt supplement is issued where appropriate; and
4. Notify Petitioner in writing of its decisions.

JM/tm

  
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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

**DHHS**

Susan Noel  
26355 Michigan Ave  
Inkster, MI  
48141

**Authorized Hearing Rep.**

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

**Petitioner**

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

cc: ME—D. Smith; EQADHShearings  
AP Specialist-Wayne County