



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: February 11, 2020
MOAHR Docket No.: 19-013586
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 February 6, 2020 from Detroit, Michigan. The Petitioner was represented by her friend and Authorized Hearings Representative (AHR), [REDACTED]. Despite email notifications of the telephone hearing as opposed to an in-person hearing on February 5th and 6th, the Department of Health and Human Services did not appear for the hearing; and it was held in its absence.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) Program case for failure to verify assets?

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 October 31, 2019, the Department mailed a Verification Checklist (VCL) to Petitioner requesting her to verify her assets by November 11, 2019.
2. The day before or the day of the due date, AHR's husband hand-delivered the verification of assets to the local office.
3. Subsequent to the hand delivery of the verification, Petitioner received another request to verify her assets.

4. AHR personally addressed two envelopes to the Department and included a second and third copy for each envelope of the same verification of assets (a four-page, double-sided form) to the Department.
5. AHR addressed the envelopes to the Department PO Box in Royal Oak as noted on the VCL as well as to the Taylor office directly.
6. The envelopes were mailed first class mail by AHR's husband.
7. Petitioner's family's MA cases were closed for failure to verify assets.
8. On December 23, 2020, the Department received Petitioner's request for hearing disputing the closure of her family's 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 disputes the Department's decision to close Petitioner's benefits for failure to verify her assets. Assets are considered in determining eligibility for some MA categories. BEM 400 (November 2019), p. 1. Assets must be verified by the Department to ensure that the assets do not exceed the countable asset limit. BEM 400, p. 63. Therefore, the Department's efforts to verify assets was in accordance with Department policy. If the Department fails to receive the verifications by the due date, the Department is required to close the MA benefit. BAM 130 (April 2017), p. 8. AHR credibly testified that the verification of assets was provided to the Department via three different methods: 1) hand delivery to the local office, 2) mail to the local office PO Box, and 3) mail to the local office directly. Given the specificity and detail regarding AHR's efforts to provide the verification of assets to the Department, her testimony is credible in addition to being unrebutted because the Department failed to appear for the hearing.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA benefits for failure to verify her assets.

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. Redetermine Petitioner's family's eligibility for MA benefits;
2. If otherwise eligible, issue supplements to Petitioner or on her family's behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.



AMTM/jaf

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

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