



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

Date Mailed: March 18, 2020
MOAHR Docket No.: 20-001153
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 March 12, 2020 from Detroit, Michigan. The Petitioner was self-represented and had her daughter, [REDACTED], and her husband, [REDACTED], appear as witnesses for the hearing. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's Application for Medical Assistance (MA) Program benefits for herself and her daughter?

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], the Department received Petitioner's completed Application for MA benefits.
2. On the Application, Petitioner, her daughter, and son are listed as being unemployed initially but then also listed as being employed by [REDACTED] (Employer) in Canton, Michigan.
3. On the Application, Petitioner's husband is listed as self-employed and as also working for Employer.
4. No interview was held to determine MA eligibility.

5. On November 25, 2019, the Department issued a Verification Checklist (VCL) to Petitioner requesting proof of all earned and unearned income, including self-employment income, by December 5, 2019.
6. On [REDACTED] 2019, the Department received verification of Petitioner's husband's self-employment income via Square payments, his Form 1099-K and their 2018 Michigan and IRS Form 1040 Tax Return including Schedule C for profits and loss of a business.
7. No verification of employment was provided for anyone for Employer.
8. On December 26, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that Petitioner and her daughter were ineligible for MA benefits because verification of income had not been returned for either person.
9. On January 29, 2020, the Department received Petitioner's request for hearing disputing the Department's decision to deny MA benefits to Petitioner and her daughter.

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 deny Petitioner's and her daughter's MA benefits based upon a failure to verify their respective income. Earned and unearned income is used in determining eligibility for MA benefits. BEM 500 (July 2017), p. 1. The Department is required to verify all non-excluded income at application. BEM 500, p. 13. Ordinarily, the client has the primary responsibility for obtaining verifications if electronic verification sources are unavailable or inconsistent with client statements. BEM 500, p. 14. In situations where there is a discrepancy, the Department is required to give the client a reasonable opportunity to resolve the discrepancy. BAM 130 (April 2017), p. 9. In addition, the Department should utilize collateral contacts with a person, organization, or agency to verify information from a

client when documentation is unavailable or available information needs clarification. BAM 130, pp. 1-2.

On Petitioner's Application for benefits, three members of Petitioner's household were listed simultaneously as being unemployed and employed at Employer. The fourth member of the household was listed as being self-employed and then also employed at Employer. Petitioner's Application created a discrepancy in the household, and the likelihood that all four members of the household work for Employer was low. Given the circumstances, the Department should have contacted Petitioner before denying the benefit for failure to verify employment to clarify household circumstances.

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 and her daughter's MA benefit for failure to verify employment income.

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 Application for MA benefits for Petitioner and her daughter;
2. If otherwise eligible, issue supplements to Petitioner or on their behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/cg



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

Susan Noel
MDHHS-Wayne-19-Hearings
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Petitioner

