



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: June 22, 2020  
MOAHR Docket No.: 20-001484  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge (ALJ) 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 June 17, 2020, from Detroit, Michigan. Petitioner was represented by [REDACTED]. Also present on behalf of Petitioner was his guardian/Authorized Representative, [REDACTED]. Present on behalf of [REDACTED] was [REDACTED]. The Department of Health and Human Services (Department) was represented by Kelley McLean, Assistant Attorney General. Present as witnesses on behalf of the Department were Franklin Cabello, Eligibility Specialist and Erik Lewis, Medical District Supervisor.

**ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing MA recipient.
2. On April 4, 2019, the Department sent Petitioner's AR a Long-Term Care Medicaid Redetermination Notice (Exhibit A, pp. 23-24).
3. On May 17, 2019, the Department sent Petitioner's AR a Health Care Coverage Determination Notice (HCCDN) informing them that Petitioner's MA benefit case was closing effective June 1, 2019, ongoing (Exhibit A, pp. 25-28).

4. On [REDACTED], 2019, Petitioner's AR submitted an application for MA benefits on behalf of Petitioner, requesting retroactive coverage effective July 1, 2019 (Exhibit A, pp. 3-8).
5. On November 21, 2019, the Department sent Petitioner's AR a HCCDN stating that Petitioner was approved for MA benefits effective July 1, 2019, ongoing (Exhibit A, pp. 12-15).
6. On [REDACTED], 2020, Petitioner's AR submitted an application for MA benefits on behalf of Petitioner for retroactive coverage for June 2019 (Exhibit A, pp. 16-18).
7. On February 10, 2020, the Department sent Petitioner's AR a Benefit Notice stating Petitioner's application for MA benefits was denied (Exhibit A, pp. 19-20).
8. On February 19, 2020, Petitioner's AR requested a hearing disputing the Department's actions.

### **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 was an ongoing MA recipient. On [REDACTED], 2019, the Department sent Petitioner's AR a Long-Term Care Medicaid Redetermination Notice. The document was due to be returned on May 1, 2019. The Department sent Petitioner's AR a HCCDN on May 17, 2019, closing Petitioner's MA benefit case effective June 1, 2019, ongoing, for his failure to complete the redetermination/renewal process. On February 19, 2020, Petitioner's AR submitted a request for hearing disputing the Department's May 17, 2019 decision.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). BAM 600 (April 2017), p. 2. Moreover, Department policy provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. BAM 600, p. 6.

At the hearing, Petitioner's AR testified that neither the redetermination paperwork, nor the HCCDN were in Petitioner's file. Petitioner's AR stated that they did not receive the redetermination or the May 17, 2019 HCCDN. Petitioner's AR alleged that the documents were only sent to Petitioner's physical address (the nursing home where he resides) and not the mailing address of the AR.

The Department presented the redetermination paperwork sent on [REDACTED], 2019, and the HCCDN sent on May 19, 2019. Both documents list the AR's correct address. It is unlikely that neither document would reach the intended destination when properly addressed. Additionally, the witness that testified on behalf of the AR was not assigned to Petitioner's case until October 2019. The witness that testified on behalf of the AR could not testify with certainty that the documents were not received. The witness could only surmise that the documents were not received based on their absence from the file. The Department presented sufficient evidence to establish that the AR was sent proper notification of the closure of Petitioner's MA benefit case. Petitioner's AR did not timely submit a request for hearing. Therefore, the undersigned ALJ does not have jurisdiction to address the matter.

On [REDACTED], 2019, Petitioner's AR submitted an application for MA benefits on Petitioner's behalf. Petitioner's AR requested retroactive MA coverage effective July 1, 2019. On November 21, 2019, the Department sent Petitioner's AR a HCCDN stating Petitioner was approved for MA benefits effective July 1, 2019, ongoing.

Per Department policy, the Michigan Office of Administrative Hearings and Rules may grant a hearing about any of the following: (i) denial of an application and/or supplemental payments; (ii) reduction in the amount of program benefits or service; (iii) suspension or termination of program benefits or service; (iv) restrictions under which benefits or services are provided; (v) delay of any action beyond standards of promptness; or (vi) for FAP only, the current level of benefits or denial of expedited service. BAM 600 (April 2018), p. 5.

Petitioner's AR only requested retroactive MA coverage to be effective July 1, 2019. Petitioner's AR did not request retroactive MA coverage for June 2019, in the [REDACTED], 2019 application. Therefore, there is no justiciable issue with respect to the November 21, 2019 decision.

A retroactive application for MA benefits was submitted on Petitioner's behalf on [REDACTED], 2020, requesting MA coverage for June 2019. On February 10, 2020, the Department sent Petitioner's AR a Benefit Notice stating the MA application was denied.

Retro MA coverage is available back to the first day of the third calendar month prior to: (i) the current application for Family Independence Program (FIP) or MA applicants and persons applying to be added to the group; (ii) the most recent application (not renewal) for FIP and MA recipients; (iii) for Supplemental Security Income (SSI) recipients,

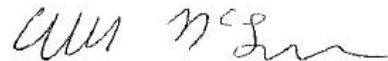
entitlement to SSI; for Department wards, the date the Department received the court order for the Department ward; and (iv) for Title IV-E and special needs adoption recipients, entitlement to Title IV-E or special needs adoption assistance. BAM 115 (January 2019), p. 12. Eligibility must be made for each of the three retro months. BAM 115, p. 13.

Department policy does not provide any exceptions to the three-month retroactive MA period. Petitioner's AR did not submit an application for MA benefits within the requisite time period to receive MA benefits for June 2019. Therefore, the Department acted in accordance with policy when it denied Petitioner's MA application.

### **DECISION AND ORDER**

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 acted in accordance with Department policy when it denied Petitioner's MA application. Accordingly, the Department's decision is **AFFIRMED**.

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**Ellen McLemore**

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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**Petitioner**

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cc: MA- Deanna Smith; EQADHShearings  
AP Specialist-Wayne County