



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: June 18, 2020
MOAHR Docket No.: 20-002490
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 three-way telephone hearing was held on June 16, 2020.

Petitioner appeared unrepresented. [REDACTED], Petitioner's spouse, appeared as a witness.

The Department of Health and Human Services (Department) was represented by April Nemeck, Hearings Facilitator.

Department Exhibit A.47 was offered and admitted into the record.

ISSUE

Did the Department properly process Petitioner's MA application?

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, Petitioner applied for Medicaid (MA) for her daughter, born [REDACTED] 2019. Petitioner did not apply for retro MA for her daughter.
2. Petitioner did not apply for MA or Retro MA for herself or her spouse.
3. Petitioner is not a citizen. Petitioner's spouse stated he was a citizen. To date, Petitioner's spouse has not provided proof of citizenship. Petitioner's spouse was born in Greece.

4. The Respondent incorrectly processed the application, giving all three members of the household MA. The Department issued a DHS-1606 Health Care Coverage Determination Notice, indicating all three were approved MA beginning December 1, 2020. The notice states that Petitioner was eligible only for emergency services as she is not a citizen. Petitioner's spouse's full MA was opened, pending verification of citizenship.
5. On March 4, 2020, Petitioner came into the office requesting retro MA for her daughter for the month of November 2019. The Department issued a DHS 1606 Health Care Determination Notice approving retro MA for Petitioner's daughter.
6. On March The Department reviewed eligibility for Petitioner and her spouse, discovering that in fact Petitioner and spouse never applied, and that they would be excess income. e Department error. Upon review, the Department determined that Petitioner and her spouse had never applied and were excess income. On March 4, 2020, the Department issued a DHS 1606 closing MA for Petitioner and her spouse effective April 1, 2020 and ongoing, due to excess income.
7. Petitioner and her spouse received MA coverage for which they were not eligible from December 1, 2019, through March 31, 2020, due to Department error.
8. Petitioner and her spouse's income on the application was inconsistent with the State of Michigan wage data matches, making Petitioner and her spouse excess income.
9. On March 12, 2020, Petitioner filed a hearing request, requesting retro MA for herself and her spouse, for the retro month of November 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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

In this case, Petitioner does not dispute her child's MA or retro MA which is ongoing. Rather, Petitioner asks this forum to grant benefits to Petitioner and her spouse for the retro month of November 2019 based either on her daughter's application, and/or based on the fact that the Department opened MA for her and her spouse and should also have opened retro MA.

Here, the Department argues that Petitioner was never eligible, as an application on behalf of herself and/or her spouse was never made. The Department further argues that even if an application had been made, in the alternative, there would have been no eligibility on the grounds that verification was never received for proof of citizenship, and the household had excess income.

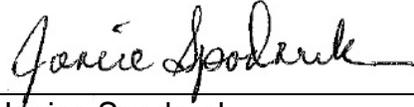
After a careful review of the credible and substantial evidence of record, the undersigned finds that the error here in granting MA resulted in Petitioner and her spouse receiving more benefits than they were entitled to receive. Petitioner's argument that she and her spouse should be entitled to even more benefits from on the basis of the error is without any merit; Petitioner and her spouse are not entitled under law or policy to prevail in receiving more welfare benefits than they are eligible for on the grounds that that they ineligibly received welfare benefits from December 1, 2019 through March 31, 2020. That is, Petitioner and her spouse cannot be granted even more benefits based on an error the Department made where there would not be eligible otherwise. Petitioner does not dispute the facts here, except possibly, regarding whether her spouse's proof of citizenship was provided to the Department. However, it is not necessary to rule on this issue, as in the alternative, Petitioner's spouse would not be eligible due to excess income. The Department's wage match shows that Petitioner's spouse's income was greater than disclosed on the application. At the administrative hearing, Petitioner did not dispute the wage match verification in the evidentiary packet.

Petitioner also argued that she hired an agent to file her application and had to fire the agent. However, such is not a fact that will change any MA eligibility factors where there is no eligibility for a number of reasons.

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 processed and made subsequent changes to the MA cases. Petitioner failed to meet her burden of proof to show that the Department did not act in accordance with policy and law. Petitioner cannot profit from a mistake that the Department made. Petitioner and her spouse received all and more benefits than they were entitled to.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



JS/ml

Janice Spodarek
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

Genesee County (Union St.) DHHS – Via
Electronic Mail

BSC2 – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

Petitioner

[REDACTED]
MI [REDACTED]