



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 6, 2020
MOAHR Docket No.: 20-005113
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 September 29, 2020, from Lansing, Michigan. The Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented Lori Aumick, Hearings Facilitator.

Respondent's Exhibit pages 1-51 were admitted.

ISSUE

Did the Department properly deny Petitioner's application for Medical Assistance (MA)?

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] 2020, Petitioner applied for Medical Assistance benefits alleging disability in her application.
2. On July 6, 2020, a DHS-1004 Healthcare Supplemental Questionnaire was mailed to Petitioner and Petitioner's authorized representative with information due on July 16, 2020.
3. On July 8, 2020, a DHS-1606 Healthcare Coverage Determination was mailed to Petitioner indicating that Petitioner was not eligible to receive MA because

Petitioner was not under 21, pregnant, or a caretaker of a minor child in the home. Petitioner was also not over 65, blind or disabled.

4. On July 10, 2020, the system-generated Asset Detection was received by the Department.
5. On July 16, 2020, a second DHS-1004 Healthcare Supplemental Questionnaire was re-mailed to Petitioner.
6. On July 23, 2020, a DHS-1606 Healthcare Determination was mailed to Petitioner alleging that Petitioner failed to return the supplemental questionnaire.
7. On July 29, 2020, a DHS-18 Hearing Request was submitted by Petitioner to contest the Department's negative action.

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.

Pertinent Department policy dictates:

All Programs Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement must be applied the same for every client. Local requirements may not be imposed for Medicaid Assistance (MA).

- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. (Bridges Administrative Manual (BAM) 130, page 1)

Medicaid

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times.

At renewal if an individual is required to return a pre-populated renewal form, allow 30 calendar days for the form to be returned.

At application, renewal, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.
- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.
- Every effort by the department was made to assist the client in obtaining verifications. (BEM 130, page 8)

In this case, the evidence that the Department did not allow Petitioner ten days in which to provide documentation. Though the Department alleges that it attempted to rectify the situation by sending other documents to Petitioner, the Department was not in compliance with policy. The Department's case is not established by a preponderance of the evidence presented.

A preponderance of evidence is evidence which is of a greater weight or more convincing than evidence offered in opposition to it. It is simply that evidence which outweighs the evidence offered to oppose it *Martucci v Detroit Commissioner of Police*, 322 Mich 270; 33 NW2d 789 (1948).


DECISION AND ORDER

Accordingly, the Department's decision to determine Petitioner ineligible for Medical Assistance 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. Reinstate Petitioner's Medical Assistance application.
2. Allow Petitioner to provide documentation in compliance with Department policy.
3. Re-evaluate Petitioner's Medical Assistance case and determine Petitioner's eligibility for Medical Assistance based upon Medical Disability as well as all other categories, from the [REDACTED], 2020, application date forward in accordance with Department policy.
4. If Petitioner is otherwise eligible, open an ongoing Medical Assistance case for Petitioner.

LL/hb



Landis Lain
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 (Clio), DHHS

BSC2 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]