



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: November 20, 2020
MOAHR Docket No.: 20-006038
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 October 22, 2020, from Lansing, Michigan. The Petitioner was represented by her attorney, authorized representative, and power of attorney, Jeffrey Wingfield, P#67318 and son, [REDACTED]. The Department of Health and Human Services (Department) was represented by Rebecca Ferrell, Assistance Payments Supervisor (APS).

ISSUE

Did the Department properly determine Petitioner's eligibility 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], 2019, Petitioner applied for MA.
2. On December 9, 2019, the Department Caseworker made the determination that identified a baseline date of November 1, 2019, with a divestment period of November 1, 2019, through January 28, 2020.
3. On December 9, 2019, the Department Caseworker sent Petitioner a notice with the incorrect baseline date of January 1, 2020 implemented by BRIDGES resulting in an incorrect divestment period of January 1, 2020, through March 28, 2020.

4. On February 27, 2020, the Department received a hearing request from the Petitioner, contesting the Department's negative

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 applied for MA on [REDACTED] 2019. On December 9, 2019, the Department Caseworker made the determination that identified a baseline date of November 1, 2019, with a divestment period of November 1, 2019, through January 28, 2020. On December 9, 2019, the Department Caseworker sent Petitioner a notice with the incorrect baseline date of January 1, 2020, implemented by BRIDGES resulting in an incorrect divestment period of January 1, 2020, implemented by BRIDGES resulting in an incorrect divestment period of January 1, 2020, through March 28, 2020.

During the hearing, the APS stated that due to Department error that the divestment period was incorrect requiring a hearing decision to order the system ticket correction. The parties agree that the baseline should be November 1, 2019, with a divestment period of November 1, 2019, through January 28, 2020. The application, divestment verifications, and notice were not submitted in the hearing packet.

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 did not act in accordance with Department policy when it incorrectly calculated the baseline of January 1, 2020 instead of November 1, 2019, which resulted in an incorrect divestment period of January 1, 2020, through March 28, 2020, instead of the correct time period of November 1, 2019, through January 28, 2020.

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:

1. Initiate an expedited BRIDGES fix it ticket in accordance with this order to implement a baseline date of November 1, 2019, with a divestment penalty of November 1, 2019, through January 28, 2020.
2. Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and
3. Issue Petitioner any retroactive benefits she may be eligible to receive, if any.

CF/hb



Carmen G. Fahie
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

Grand Traverse County, DHHS

BSC1 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

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Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]