



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 10, 2021
MOAHR Docket No.: 20-007616
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held via telephone conference on March 4, 2021. Petitioner participated and was unrepresented. [REDACTED], Petitioner's neighbor, and [REDACTED] Petitioner's spouse, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Demetria Davis, supervisor.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Medical Assistance (MA) benefits.

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, MDHHS received an application from Petitioner requesting MA benefits.
2. On an unspecified date, MDHHS learned of self-employment income for Petitioner's spouse.
3. On September 21, 2020, MDHHS mailed Petitioner a Health Care Coverage Supplemental Questionnaire (HCCSQ) with a due date of October 1, 2020.
4. On October 7, 2020, MDHHS received Petitioner's HCCSQ.

5. On October 27, 2020, MDHHS denied Petitioner's MA application due to Petitioner's alleged failure to submit a HCCSQ.
6. As of October 27, 2020, MDHHS had not requested Petitioner's verification of spouse's income via Verification Checklist (VCL).
7. On [REDACTED] 2020, Petitioner requested a hearing to dispute the denial of MA benefits.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of an application for MA benefits. Exhibit A, p. 6. As of Petitioner's hearing request date, the most recently denied MA application was dated [REDACTED], 2020.¹ A Health Care Coverage Determination Notice (HCCDN) dated October 27, 2020, stated that Petitioner was denied for failing to return a HCCSQ. Exhibit A, pp. 22-24. MDHHS testimony acknowledged that Petitioner returned to MDHHS a HCCSQ on October 7, 2020.² MDHHS testified that the actual basis for denial was Petitioner's alleged failure to verify spouse's income.

For all programs, upon certification of eligibility results, MDHHS must automatically notify the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (April 2019) p. 2. Notices must include the action taken by MDHHS, the reason for the action, the specific manual item which cites the legal basis for action, an explanation of the right to request a hearing, and the conditions under which benefits may be continued if a hearing is request. *Id.*, pp. 2-3.

The notice of denial sent to Petitioner failed to state that Petitioner's application was denied due to a failure to verify income. Thus, the notice of denial was improper for failing to cite a proper reason for application denial. As a remedy, Petitioner is entitled to a reprocessing of MA eligibility along with proper written notice. The analysis will proceed to examine MDHHS's action before application denial.

¹ Petitioner also submitted to MDHHS an application dated [REDACTED], 2020. MDHHS did not deny this application until after Petitioner requested a hearing. Thus, the denial of the application dated [REDACTED] 2020, could not have been the subject of Petitioner's hearing request.

² The HCCSQ returned by Petitioner was also presented as part of MDHHS's hearing packet. Exhibit A, pp. 8-11.

On some unspecified date during the application process, MDHHS learned that Spouse received self-employment income.³ MDHHS contended that Petitioner failed to verify her spouse's self-employment income. MDHHS contended that a valid verification request for the income was made on the HCCSQ which asks a client to list income and to submit proof. Exhibit A, p. 9.

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 8. MDHHS may send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

A HCCSQ appears to be only cited in policy once: the DHS-1004, Health Care Coverage Supplemental Questionnaire, is used to gather additional information when the applicant indicates a disability on the DCH-1426. BEM 105 (January 2020) p. 3. Though a MCCSQ may ask for proof of income, policy does not allow a HCCSQ as a substitute for a VCL. MDHHS did not present evidence that a VCL was sent to Petitioner before the denying Petitioner's application.

Given the evidence, MDHHS's failure to send Petitioner a VCL to request self-employment income was improper. Thus, a denial based on Petitioner's alleged failure to verify self-employment income was also improper.

³ Curiously, Petitioner did not report self-employment income for her spouse on the HCCSQ submitted to MDHHS. Exhibit A, pp. 8-11.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for MA benefits. MDHHS is ordered to commence the following actions within 10 days of the date of mailing of this decision:

- (1) Re-register Petitioner's application dated [REDACTED], 2020;
- (2) Process Petitioner's application subject to the findings that MDHHS failed to properly request self-employment income and failed to properly state the reason for denial; and
- (3) Issue updated notice and a supplement of benefits, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/tm



Christian Gardocki
Administrative Law Judge
for Elizabeth Hertel, 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

Via Email:

MDHHS-Macomb-20-Hearings
C. George
EQADHearings
BSC4
MOAHR

**Petitioner –
Via First-Class Mail:**

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