



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 26, 2021
MOAHR Docket No.: 21-000647
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 March 24, 2021, from Detroit, Michigan. Petitioner was present with his Authorized Hearing Representative (AHR), ██████████. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) benefit 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 ██████████ 2020, Petitioner submitted an application for MA benefits.
2. On November 13, 2020, the Department sent Petitioner a Health Care Coverage Determination Notice (Exhibit A, pp. 7-10).
3. On February 11, 2021, Petitioner submitted a request for 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 submitted an application for MA benefits on August 20, 2020. The Department determined Petitioner was not eligible for MA benefits under the Healthy Michigan Plan (HMP) program, as he is a Medicare recipient. The HMP program provides health care coverage for individuals who are: (i) 19-64 years of age; (ii) do not qualify for or are not enrolled in Medicare; (iii) do not qualify for or are not enrolled in other Medicaid programs; (iv) are not pregnant at the time of application; (v) meet Michigan residency requirements; (vi) meet Medicaid citizenship requirements; and (vii) have income at or below 133% of the Federal Poverty Level. BEM 137 (January 2018), p. 1. The Department testified that Petitioner was also not considered for any of the disability-related MA programs. As a result, Petitioner's MA application was denied.

A person eligible for Retirement, Survivors and Disability Insurance (RSDI) benefits based on his disability or blindness meets the disability or blindness criteria for MA benefits. BEM 260 (January 2020), p. 1. Disabled individuals qualify for SSI-related MA programs including the full-coverage Ad-Care program and the Group 2 SSI-related (G2S) programs. BEM 163 (July 2017), p. 1 and BEM 166 (April 2017), p. 1. Additionally, disabled individuals that are employed are potentially eligible under the Freedom to Work (FTW) category. BEM 174 (January 2020), p. 1.

At the hearing, the Department conceded that Petitioner receives RSDI based on a disability. The Department also acknowledged that Petitioner was not considered for any of the disability-related MA programs. It was also established that Petitioner is employed. As Petitioner meets the disability criteria for disability-related MA, the Department failed to act in accordance with policy when it did not consider his eligibility under the disability-related MA programs, including Ad-Care, G2S and FTW. Thus, the Department failed to establish that it acted in accordance with policy when it denied Petitioner's MA application.

DECISION AND ORDER

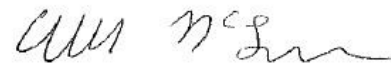
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's MA application.

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, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate and reprocess Petitioner's [REDACTED] 2020 MA application;
2. If Petitioner is eligible for MA benefits, provide him with coverage he is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/jem



Ellen McLemore

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-Wayne-19-Hearings
BSC4-HearingDecisions
C. George
EQADhearings
MOAHR

Authorized Hearing Rep. – Via USPS:

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Petitioner - Via USPS:

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