



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

██████████
██████████████████
██████████████████
██████████ MI ██████████

Date Mailed: March 26, 2021
MOAHR Docket No.: 21-000831
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 represented by her Authorized Hearing Representative (AHR), Jennifer Carney. The Department of Health and Human Services (Department) was represented by Lindsey Lavine, Assistant Attorney General. Also present for the Department were witnesses, Donnell Thomas, Assistance Payments Worker, and Karen Smalls, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner’s Medical Assistance (MA) eligibility?

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, an MA application was submitted on behalf of Petitioner (Exhibit A, pp. 14-15).
2. On March 2, 2020, the Department sent Petitioner’s AHR a Health Care Coverage Determination Notice (HCCDN) informing her that Petitioner’s MA application was denied (Exhibit A, pp. 17-19).
3. On ██████████ 2020, an MA application was submitted on behalf of Petitioner, requesting current and retroactive MA coverage.

4. On July 23, 2020, the Department sent Petitioner's AHR a HCCDN informing her that Petitioner was approved for MA benefits effective April 1, 2020, ongoing (Exhibit A, pp. 20-23).
5. On [REDACTED] 2021, an MA application was submitted on Petitioner's behalf for retroactive MA coverage for January through March 2020 (Exhibit A, p. 30).
6. On January 15, 2021, the Department sent Petitioner's AHR a HCCDN informing her that Petitioner was approved for MA benefits in March 2020, but coverage was denied in January and February 2020 (Exhibit A, pp. 33-26).
7. On January 15, 2021, Petitioner's AHR submitted a request for hearing disputing the Department's decisions regarding Petitioner's MA benefit case.

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's AHR submitted a request for hearing disputing the Department's decision to deny Petitioner MA coverage during the months of January and February 2020. An MA application was initially submitted on behalf of Petitioner on [REDACTED] 2020. The Department presented a HCCDN sent on March 2, 2020, denying Petitioner's [REDACTED] 2020 MA application.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). BAM 600 (April 2017), p. 2. Moreover, Department policy provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. BAM 600, p. 6.

The Department presented Petitioner's AHR's request for hearing submitted on February 17, 2021 (Exhibit A, pp. 6-10). Petitioner's AHR conceded that a request for hearing regarding the March 2, 2020 denial was not submitted prior to February 17, 2021. Petitioner's AHR alleged that she did not receive the March 2, 2020 HCCDN and was not properly provided notice of the denial.

The Department presented sufficient evidence that Petitioner's AHR was issued notice on March 2, 2020, regarding the denial of the [REDACTED] 2020 application. Additionally, the Department sent Petitioner's AHR a HCCDN on July 23, 2020, approving the June 24, 2020 application with retroactive coverage effective April 1, 2020. Petitioner's AHR was also advised that Petitioner was not eligible for MA benefits during the period of March 1, 2020 through March 31, 2020. Petitioner's AHR did not submit a request for hearing until February 17, 2021, which was beyond the 90-day time limit. Therefore, Petitioner's AHR does not have a right to hearing regarding the March 2, 2020 decision.

On [REDACTED] 2021, Petitioner's AHR submitted a retroactive MA application on behalf of Petitioner requesting coverage for January through March 2020. The Department approved the application for March 2020 but denied the application for January and February 2020.

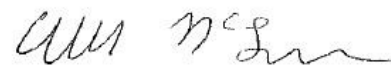
Retro MA coverage is available back to the first day of the third calendar month prior to: (i) the current application for Family Independence Program (FIP) or MA applicants and persons applying to be added to the group; (ii) the most recent application (not renewal) for FIP and MA recipients; (iii) for Supplemental Security Income (SSI) recipients, entitlement to SSI; for Department wards, the date the Department received the court order for the Department ward; and (iv) for Title IV-E and special needs adoption recipients, entitlement to Title IV-E or special needs adoption assistance. BAM 115 (January 2019), p. 12. Eligibility must be made for each of the three retro months. BAM 115, p. 13.

Petitioner's [REDACTED] 2021 application was not timely submitted to seek MA coverage for January and February 2020. Therefore, the Department acted in accordance with policy when it denied Petitioner's MA application for coverage for January and February 2020.

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 acted in accordance with Department policy when it determined Petitioner's MA eligibility. Accordingly, the Department's decision is **AFFIRMED**.

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-Oakland-6303-Hearings
AG-HEFS-MAHS - M. McLean & L. Lavine
BSC4-HearingDecisions
C. George
EQADhearings
MOAHR

Counsel for Petitioner – Via USPS:

Jennifer Carney
PO Box 2010
Birmingham, MI 48012

Petitioner - Via USPS:

██████████
████████████████████
████████████████████
██████████ MI ██████████