



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: July 14, 2021
MOAHR Docket No.: 21-001288
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 April 21, 2021. [REDACTED] the Petitioner, appeared on his own behalf. [REDACTED], son, appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Verenie Davis, Assistance Payments Supervisor (APS) and Steven Komdeur, Assistance Payments Worker. (APW). Elva Mata, Eligibility Specialist (ES), provided interpretation services during the hearing.

During the hearing proceeding the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-34.

ISSUE

Did the Department properly deny Petitioner's application for Medical Assistance (MA) and the Medicare Savings Program (MSP)?

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], 2021, the Department received an application for Health Care Coverage, including the MSP for Petitioner and his wife. (Exhibit A, pp. 21-25)
2. On January 22, 2021, a Health Care Coverage Supplemental Questionnaire was issued to Petitioner with a due date of February 2, 2021. (Exhibit A, pp. 9-12)

3. On January 22, 2021, a Verification Checklist was issued to Petitioner requesting verification of alien status for Petitioner's wife as well as "bank account checking" by a February 1, 2021 due date. (Exhibit A, pp. 26-27)
4. On January 24, 2021, a bank statement for Petitioner's wife was received by the Department. (Exhibit A, p. 28)
5. On January 28, 2021, Petitioner returned the completed Health Care Coverage Supplemental Questionnaire with several verifications, including documentation of alien status and bank statements. (Exhibit A, pp. 9-20 and 28)
6. Verification was not submitted for a checking account that was previously in Petitioner's case record, specifically a Fifth Third checking account ending in X9392. (Exhibit A, p. 34; APW Testimony)
7. The Department denied the application for MA and the MSP based on a failure to provide all requested verifications. (Exhibit A, pp. 2 and 34; APW Testimony)
8. On February 24, 2021, a Health Care Coverage Determination Notice was issued to Petitioner. (Exhibit A, pp. 6-7 and 29-33)
9. On March 3, 2021, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 4-8)

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 general, verification is to be obtained when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best

available information. If no evidence is available, the Department is to use their best judgment. BAM 130, January 1, 2021, pp. 1-3.

For MA, the Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. If the client cannot provide the verification despite a reasonable effort, the Department can extend the time limit up to two times when specific conditions are met. Verifications are considered timely if received by the date they are due. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8.

On January 22, 2021, a Health Care Coverage Supplemental Questionnaire was issued to Petitioner with a due date of February 2, 2021. (Exhibit A, pp. 9-12) On January 22, 2021, a Verification Checklist was issued to Petitioner requesting verification of alien status for Petitioner's wife as well as bank account checking by a February 1, 2021 due date. (Exhibit A, pp. 26-27)

On January 24, 2021, a bank statement for Petitioner's wife was received by the Department. This was a Fifth Third account ending in 5157, (Exhibit A, p. 28)

On January 28, 2021, Petitioner returned the completed Health Care Coverage Supplemental Questionnaire with several verifications, including documentation of alien status and bank statements. (Exhibit A, pp. 9-20 and 28)

The Department explained that they denied the application for MA and the MSP based on a failure to provide all requested verifications. Specifically, verification was not submitted for a checking account that was previously in Petitioner's case record, a Fifth Third checking account ending in X9392. (Exhibit A, pp. 2 and 34; APW Testimony (Exhibit A, p. 34; APW Testimony)

Petitioner's son explained that they sent in verification when the Department requested it. The additional bank account had been closed and they did not know verification would be needed for the closed account. (Son Testimony)

In this case, the Department did not follow the above cited BAM 130 policy. The January 22, 2021 Verification Checklist did not provide the usual information regarding what types of proof could be provided for the requested bank account verification. Rather, the request for this information was in the "Please provide additional information about" section and only states "Bank Account Checking." (Exhibit A, p. 27) Typically, the request for bank account verification would have been listed above this section similarly to how the request for verification of alien status was listed.

Additionally, prior to the due date Petitioner made a reasonable attempt to provide the requested verification and submitted recent bank statements from Fifth Third Bank. (Exhibit A, pp. 16-7 and 28) As the verification request did not specify what checking account(s) verification was needed for, it was reasonable for Petitioner to provide recent bank statements. If additional verification was needed, the Department should have let

Petitioner know what specific checking account verification was needed and how to obtain it. At the program at issue was MA, the Department could have extended the due date up to two times if needed and requested.

The Department noted that both MA and the MSP have since been approved. The MSP was approved April 7, 2021 and was scheduled to start on April 1, 2021. The MA was approved April 7, 2021 and was scheduled to start on March 1, 2021. This was from processing a more recent application. (APW and APS Testimony)

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 denied Petitioner's [REDACTED] 2021, application for MA and the MSP.

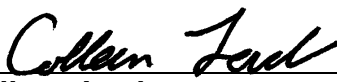
DECISION AND ORDER

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. Re-determine eligibility for the [REDACTED] 2021 application for MA and the MSP in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.

CL/ml



Colleen Lack
Administrative Law Judge

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 – via electronic mail

MDHHS-Kent-Hearings
BSC3
C. George
EQAD

Petitioner – via first class mail

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