



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: July 7, 2021
MOAHR Docket No.: 21-002278
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 June 7, 2021, from Detroit, Michigan. Petitioner appeared for the hearing with her daughter, ██████████ and her Authorized Hearing Representative (AHR) ██████████, Social Worker with Senior Alliance. The Department of Health and Human Services (Department) was represented by Princess Ogundipe, Eligibility Specialist.

ISSUE

Did the Department properly deny 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 or around ██████████ 2021, Petitioner submitted an application for MA benefits. Petitioner also requested retroactive MA coverage for the months of October 2020, November 2020, and December 2020. Petitioner requested MA benefits using a MDHHS-1171 application. (Exhibit A; Exhibit B)
2. On January 29, 2021, the Department sent Petitioner a Health Care Coverage Supplemental Questionnaire (Questionnaire) which she was instructed to complete and return to the Department by February 8, 2021. (Exhibit A, pp. 4-7)
3. Petitioner requested that the due date of the completed Questionnaire be extended.

4. While the case comments indicate that the Department approved Petitioner's request for extension, there was no evidence that the Department notified Petitioner of the extended due date. (Exhibit A, p.8)
5. On or around February 26, 2021, Petitioner submitted the completed Questionnaire and some additional verifications, including proof of bank account.
6. On March 2, 2021, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) informing her that she was ineligible for MA benefits because she failed to timely return the supplemental questionnaire mailed to her. (Exhibit A, pp. 9-11)
7. On or around April 29, 2021, Petitioner requested a hearing disputing the Department's actions and the denial of her MA application. (Exhibit A, p. 3)

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 the present case, Petitioner requested a hearing disputing the Department's denial of her [REDACTED] 2021, MA application which also sought retroactive coverage to October 2020.

An application for MA can be submitted using: a MDHHS-1171, Assistance Application, the packet of which includes an information booklet, the assistance application, and program specific supplement forms; a DCH-1426, Application for Health Coverage & Help Paying Costs (all Medicaid categories); A Federal Facilitated Marketplace (FFM) application is acceptable for all Medicaid categories; or a DHS-4574, Medicaid Application for Nursing Facility Patients, Long Term Care residents only. BAM 110 (January 2020), pp. 1-2.

The DHS-1004, Health Care Coverage Supplemental Questionnaire, is used to gather additional information when the applicant indicates a disability on the DCH-1426 (MA application). BEM 105 (January 2020), p. 3.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2021), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, pp. 3-4. For MA cases, clients are given 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, pp. 7-9. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, pp. 7-9. Verifications are considered to be timely if received by the date they are due. BAM 130, pp. 7-9. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 8-9.

At the hearing, the Department testified that in connection with the MA application received, it sent Petitioner the Questionnaire, which was to be completed and returned by February 8, 2021, along with the proofs identified on the Questionnaire. The Department testified that based on the case comments reviewed, the Department granted Petitioner's request for an extension to submit the Questionnaire. The Department confirmed that on February 26, 2021, it received Petitioner's completed Questionnaire and verification of assets but because proof of Petitioner's pension income was not submitted with the Questionnaire, it issued the March 2, 2021, Health Care Coverage Determination Notice, denying Petitioner's [REDACTED] 2021, MA application for failure to return a completed Questionnaire.

Although Petitioner submitted the Questionnaire with some of the verifications on February 26, 2021, Petitioner's AHR asserted that the Questionnaire was not required because Petitioner submitted a complete MDHHS-1171 Assistance Application with the supplemental forms. Petitioner's AHR asserted that after receiving Petitioner's MA application, the Department should have sent a VCL, rather than the Questionnaire, identifying the verifications being requested and the due date. Petitioner's AHR further argued that Petitioner never received any notification or communication from the Department that the request for extension was granted and thus, Petitioner was unaware of the extended due date for submission of the Questionnaire or any additional required verifications. Petitioner's AHR asserted that Petitioner was expecting to receive a VCL with the extended due date for the missing verifications.

Based on the above referenced Department policies, because Petitioner did not request MA benefits by submitting a DCH-1426 Application for Health Coverage & Help Paying Costs, the Department was not required to send a DHS-1004 Health Care Coverage Supplemental Questionnaire and instead, could have requested verification of income and assets using a VCL. Because the Questionnaire was not required in order to

process Petitioner's MA eligibility, the Department improperly denied the application for failure to return the Questionnaire.

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 January 29, 2021, MA application.


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. Register and reprocess Petitioner's [REDACTED] 2021, MA application to determine her MA eligibility under the most beneficial program from the retroactive period of October 1, 2020, ongoing;
2. Provide Petitioner with MA coverage under the most beneficial category, if otherwise eligible, from October 1, 2020, ongoing, in accordance with Department policy; and
3. Notify Petitioner and her AHR in writing of its decision.

ZB/jm



Zainab A. Baydoun
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

Via Email:

MDHHS-Wayne-18-Hearings
BSC4-HearingDecisions
C. George
EQADhearings
MOAHR

Petitioner – Via USPS:

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Authorized Hearing Rep. – Via USPS:

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