



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] MI [REDACTED]

Date Mailed: June 25, 2021  
MOAHR Docket No.: 21-002354  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Janice Spodarek**

**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 10, 2021.

Petitioner personally appeared and testified. [REDACTED] [REDACTED]  
[REDACTED] appeared as a support person.

The Department of Health and Human Services (Department) was represented by Kimberly Reed, Lead Worker.

Department Exhibit A.91 was offered and admitted into the record.

**ISSUE**

Did the Department properly deny Petitioner's [REDACTED] 2021 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 [REDACTED] 2021 Petitioner applied for MA.
2. On February 25, 2021, Petitioner delivered a requested copy of the [REDACTED] Trust and the [REDACTED] Special Needs Trust to the MDHHS. Exhibit A.
3. On March 10, 2021, the trust division within the MDHHS indicated that it still needed a copy of the Special Needs Trust for [REDACTED].

4. On April 13, 2021, MDHHS mailed a denial of Petitioner's MA on the grounds that the verification of the trust was not returned.
5. On April 30, 2021, Petitioner filed a hearing request.

### **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, applicable policy and procedure can be found in multiple policies, not limited to BAM 105, 110, 115, 130, 220 and BEM 10, 2016, 137, 163, 14, 165, 166, 400, 401, and 402.

Here, Petitioner argues that she delivered the requested trusts, which can be found in the Department's evidentiary packet. Kimberly Reed, the Department's representative, testified that she only follows instructions from the trust arm of her Department and did not know why the trust office indicated that the documents Petitioner submitted were incomplete. However, the Department's witness reviewed the documents submitted by Petitioner and agrees that they are complete. In addition, Petitioner's associate who assisted Petitioner with the hearing testified that the documents were personally delivered to [REDACTED] on April 30, 2021, who authored prior emails that he did not receive all of the necessary documents. Additionally, at the administrative hearing, [REDACTED] requested to read into the record notes entered by Petitioner's worker which were not previously submitted to MOAHR or to the Petitioner for review. Nor was Petitioner's case worker, who authored the notes available for the administrative hearing for testimony and/or cross-examination.

Additionally, the undersigned has reviewed these documents and cannot determine why the trust office finds the documents unacceptable. In such instances, the trust office needs to either explain to the Department's representative what exactly is missing, if anything, or appear at the administrative hearing as a witness to testify as to why the documents Petitioner submitted are incomplete.

After a careful review of the Department's evidentiary record and testimony at the administrative hearing, this ALJ finds that the Department has failed to meet its burden of going forward to explain the reason for the MA denial. Petitioner submitted the verification requested. No one at the administrative hearing, including the Department's own represented, disputed the fact that the Department has in its possession the required documents. As such, the evidentiary record requires a finding that the Department did not act in accordance with Department policy when it denied Petitioner's MA application.

**DECISION AND ORDER**

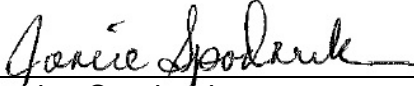
Accordingly, the Department's decision is **REVERSED**.

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. Reinstate Petitioner's MA application of [REDACTED], 2021, and
2. Reprocess Petitioner's MA application, and if necessary, issue any verification request that states with specificity what is necessary, when it is due, and why the trust documents already in possession with the MDHHS are not complete, and
3. Issue new notice to Petitioner regarding the Department's reprocessing of her application giving Petitioner 90 days from the date of the notice to request an administrative hearing which shall relate back to Petitioner's [REDACTED], 2021 MA application date.

**IT IS SO ORDERED**

JS/ml

  
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Janice Spodarek  
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**

Kimberly Reed  
Montcalm County DHHS – via electronic  
mail

BSC3 – via electronic mail

C. George – via electronic mail

EQAD – via electronic mail

**Petitioner**

██████████ – via first class mail

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