



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: April 24, 2023
MOAHR Docket No.: 23-001638
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 April 19, 2023, via conference line. Petitioner was represented by her Authorized Hearing Representative (AHR), ██████████. Petitioner solicited testimony from ██████████ Owner of ██████████ (Petitioner's legal guardian/Authorized Representative (AR)). The Department of Health and Human Services (Department) was represented by Ticara Hendley, Assistant Attorney General. The Department solicited testimony from Franklin Cabello, Eligibility Specialist

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) 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 January 5, 2023, an application for MA benefits was submitted on Petitioner's behalf (Exhibit A, pp. 4-10). The only income listed for Petitioner was her Retirement, Survivors and Disability Insurance (RSDI) income.
2. On January 6, 2023, the Department sent Petitioner's AR a Verification Checklist (VCL) requesting verification of Petitioner's bank accounts and pension income (Exhibit A, pp. 12-13).

3. On January 13, 2023, the Department sent Petitioner's AR a VCL requesting verification of Petitioner's bank accounts and pension income (Exhibit A, pp. 14-15).
4. On January 31, 2023, the Department sent Petitioner's AR a VCL requesting verification of Petitioner's bank accounts and pension income (Exhibit A, pp. 16-17).
5. On February 7, 2023, the Department sent Petitioner's AR a Health Care Coverage Determination Notice (HCCDN) stating that Petitioner's MA application was denied, for the failure to submit the requested verifications (Exhibit A, pp. 18-20).
6. On March 18, 2023, Petitioner's AR 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, an application was submitted on behalf of Petitioner on January 5, 2023. On January 6, 2023, the Department sent Petitioner's AR a VCL requesting verification of Petitioner's bank accounts and pension income. The Department granted Petitioner's AR two extensions to return the requested verifications. Proofs were due by February 2, 2023.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), 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. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. The Department sends a negative action

notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department requested verification of pension income for Petitioner, as a result of an application signed by Petitioner on June 4, 2014 (Exhibit A, pp. 23-33). Per the application provided, Petitioner reported that she had income from a pension. The Department testified that Petitioner's AR did not submit the requested proof of income for the pension benefits. As a result, Petitioner's MA application was denied.

Petitioner's AR testified that in 2014, Petitioner was hospitalized at a psychiatric facility. Petitioner had a legal guardian at the time, and it was believed that Petitioner was incompetent, due to her severe bipolar disorder. Petitioner's AR stated that extensive research was completed, including conversations with the Social Security Administration, and it was determined that Petitioner never had a pension income. Petitioner's AR stated that she notified the Department that Petitioner did not have a pension income to verify.

Per the case comments provided by the Department, at the time of the 2014 application, Petitioner's sister-in-law was her legal guardian. It is unclear as to whether Petitioner submitted the application for benefits or if Petitioner's guardian submitted the application for benefits on Petitioner's behalf. A verification request was sent to Petitioner's guardian, but no verifications were ever returned. The existence of the pension was never verified by the Department. It is also uncertain as to whether Petitioner or her guardian at the time were capable of providing accurate information to the Department. Petitioner's AR did not report a pension income in the application for MA benefits, and notified the Department that Petitioner did not have any income from a pension after receiving the VCL. Based on the evidence presented, there is insufficient evidence to establish that Petitioner had income from a pension. Therefore, the Department did not act in accordance with policy when it requested verification of the pension income. As it follows, the Department did not act in accordance with policy when it denied Petitioner's MA application.

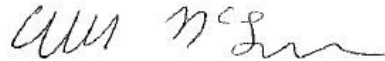
DECISION AND ORDER

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 did not act 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 the January 5, 2023 application;
2. If Petitioner is eligible for MA benefits, issue benefits in accordance with Department law and policy; and
3. Notify Petitioner's AR/AHR of its decision in writing.



EM/tm

Ellen McLemore
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

