



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: June 29, 2022
MOAHR Docket No.: 22-002006
Agency No.: ██████████
Petitioner: ██████████

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 June 7, 2022, from Lansing, Michigan. ██████████ Authorized Hearing Representative, Guardian, and Conservator, represented the Petitioner. The Department of Health and Human Services (Department) was represented by Julie McLaughlin, Hearing Facilitator and Family Independence Manager (HF/FIM).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-16.

ISSUE

Did the Department properly deny Petitioner's application for Medicaid and the Medicare Savings Program (MA and 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 ██████████ 2022, Petitioner applied for food assistance, MA, and MSP. (Exhibit A, p. 1)
2. Petitioner's Guardian/Conservator was listed on the application as an Authorized Representative. (HF/FIM Testimony)

3. The Department did not add Petitioner's Guardian/Conservator to the case record as an Authorized Representative. (HF/FIM Testimony)
4. On March 9, 2022, a Health Care Coverage Supplemental Questionnaire was issued to Petitioner with a due date of March 21, 2022. (Exhibit A, pp. 9-12)
5. Petitioner's Guardian/Conservator did not receive the Health Care Coverage Supplemental Questionnaire. (Guardian/Conservator Testimony)
6. On April 14, 2022, a Verification Checklist was issued to Petitioner requesting additional information with a due date of April 25, 2022. (Exhibit A, p. 1)
7. Petitioner's Guardian/Conservator called the Department because she was having difficulties providing the requested information, as the Verification Checklist indicated she should do. The title for Petitioner's vehicle could not be located so another title had to be ordered. The Department's computer system locked her out and she could not upload information. Petitioner's Guardian/Conservator dropped off copies of what she had at the local Department office. (Guardian/Conservator Testimony)
8. On April 22, 2022, the Department denied the application for MA and MSP based on a failure to return the Health Care Coverage Supplemental Questionnaire. A Health Care Coverage Determination Notice was issued to Petitioner. (Exhibit A, pp. 1 and 4-6)
9. On April 27, 2022, The Department received the requested bank statements. Verification regarding the vehicle was also submitted but the Department determined it was not an acceptable verification. (Exhibit A, pp. 1 and 15)
10. On May 5, 2022, a hearing request was filed on Petitioner's behalf contesting the Department's determination. (Exhibit A, pp. 3 and 16)

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.

An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (for example, to obtain FAP benefits for the group). The AR assumes all the responsibilities of a client; see BAM 105. BAM 110, April 1, 2022, p. 9. BAM 105 addresses Client or authorized representative responsibilities, such as cooperating with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. BAM 105, April 1, 2022, p. 9.

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, 2022, 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 March 9, 2022, a Health Care Coverage Supplemental Questionnaire was issued to Petitioner with a due date of March 21, 2022. (Exhibit A, pp. 9-12) The Department did not receive the Health Care Coverage Supplemental Questionnaire back from Petitioner. (HF/FIM Testimony)

Petitioner's Guardian/Conservator credibly testified that she did not receive the Health Care Coverage Supplemental Questionnaire. Similarly, Petitioner's Guardian/Conservator also did not receive a copy of the Department's Hearing Summary packet prior to the hearing. (Guardian/Conservator Testimony) The HF/FIM reviewed the case record. While Petitioner's Guardian/Conservator was listed on the application as an Authorized Representative, the Department did not add Petitioner's Guardian/Conservator to the case record as an Authorized Representative. However, it was noted that the PO Box used for Petitioner's mailing address was the same as was listed for Petitioner's Guardian/Conservator. (HF/FIM Testimony) While it is understood that the PO Box address was the same, the evidence shows that Petitioner's Guardian/Conservator was not added to the case record as the Authorized Representative for the MA/MSP application. The Department erred by failing to add Petitioner's Guardian/Conservator to the case record as the Authorized Representative. Further, the evidence indicates that mail being sent to just Petitioner at that PO Box has not been consistently delivered.

Petitioner's Guardian/Conservator could not fulfill the responsibility to complete and return the Health Care Coverage Supplemental Questionnaire because she did not receive it. Further, as Petitioner's Guardian/Conservator noted, the Department waited a month to take any action based on not receiving the Health Care Coverage Supplemental Questionnaire by the March 21, 2022 due date. By that time, the Department had issued the April 14, 2022, a Verification Checklist with the due date of April 25, 2022 to provide the additional information. (Exhibit A, p. 1) Petitioner's Guardian/Conservator credibly testified about the reasonable efforts she made to copy with this verification request. Petitioner's Guardian/Conservator called the Department because she was having difficulties providing the requested information, as the Verification Checklist indicated she should do. The title for Petitioner's vehicle could not be located so another title had to be ordered. The Department's computer system locked her out and she could not upload information. Petitioner's Guardian/Conservator dropped off copies of what she had at the local Department office, including verification that a new title for the vehicle had been ordered. (Exhibit A, p. 15; Guardian/Conservator Testimony) Accordingly, an extension of the due date could have been granted pursuant to BAM 130 policy based on Petitioner's Guardian/Conservator's call to the Department indicating she was having difficulties providing the requested information.

However, prior to the April 25, 2022 due date to provide the requested verifications, the Department denied the application for MA and MSP on April 22, 2022 based on a failure to return the Health Care Coverage Supplemental Questionnaire. (Exhibit A, pp. 1 and 4-6)

In this case, the Department did not follow the above cited policies as Petitioner's Guardian/Conservator was not added to the case as an Authorized Representative despite being listed on the application. Petitioner's Guardian/Conservator has shown that there have been difficulties receiving mail addressed to Petitioner at the PO Box mailing address. Further, the Department the denied the application prior to the due date for the current verification request. Petitioner's Guardian/Conservator credibly testified regarding the reasonable efforts she made to copy with the verification request she was aware of. Additionally, Petitioner's Guardian/Conservator called the Department because she was having difficulties providing the requested information, as the Verification Checklist indicated she should do.

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] 2022, application for MA and MSP.

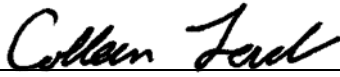
DECISION AND ORDER

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] 2022 application for MA and MSP in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy

CL/dm



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

Via-Electronic Mail :

MDHHS-Muskegon-Hearing
C. George
EQADHearings
MOAHR
BSC3HearingDecisions

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]