

[REDACTED]

APPELLANT

v.

[REDACTED]

[REDACTED]

[REDACTED]

* BEFORE MICHAEL R. OSBORN,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
* OAH No.: MDH-[REDACTED]-10B-18-39529

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DECISION

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STATEMENT OF THE CASE

On or about November 26, 2018, [REDACTED] (Appellant), applied for Medical Assistance (MA)¹ benefits under the emergency medical service (X02) category following hospitalization at [REDACTED] Hospital ([REDACTED]) in [REDACTED] County. The Appellant was assisted in the MA application process by DECO Recovery Management (DECO).² DECO submitted the Appellant's MA application to an outreach office of the [REDACTED] (local department) located at [REDACTED] which accepts MA applications on behalf of the Maryland Department of Health (Department). On November 27, 2018, the local department's outreach office rejected the

¹ MA is the State's Medicaid program.
² DECO assists entities that provide care to the uninsured to get paid. According to the DECO website: "Since 1993, DECO Recovery Management has assisted hospitals by providing a full suite of eligibility management services. Our team ensures the effective and efficient conversion of potential bad debt into revenue that flows directly into the hospital's bottom line." See <https://www.decorm.com/about-us/> Here, DECO provides assistance to [REDACTED] by acting as authorized representative of the Appellant in the Appellant's pursuit of MA benefits.

application because the Appellant did not reside in [REDACTED] County. On December 20, 2018, [REDACTED] an employee of DECO, filed an appeal on the Appellant's behalf.

I held a hearing on February 7, 2019 at the [REDACTED] [REDACTED]³ Code of Maryland Regulations (COMAR) 10.01.04.02. Ms. [REDACTED] represented the Appellant, who was present at the hearing. COMAR 10.01.04.12B(1). No one from the local department, no one from the [REDACTED] and no one from the Department, appeared at the hearing.

The Administrative Procedure Act, the procedures for Fair Hearing Appeals under the Maryland State MA Program, and the Rules of Procedure of the Office of Administrative hearings (OAH) govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2018); COMAR 10.01.04; COMAR 28.02.01.

ISSUE

Did the local department properly reject the Appellant's MA application because she does not live in [REDACTED] County?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibit submitted by the Appellant:

App. Ex. 1 – Memorandum from local department outreach office at [REDACTED] to the Appellant, November 27, 2018

Testimony

No one testified. Ms. [REDACTED] provided background on the efforts she made on behalf of the Appellant, and argued.

³ The OAH assigned a case caption with a case number, which includes "[REDACTED]" a short form meaning [REDACTED] County. The Appellant's appeal is of a decision of the local department. I did not, however, alter the case number assigned by the OAH.

FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. The Appellant, an undocumented immigrant, lives in [REDACTED] County. She lived in [REDACTED] County in November 2018.
2. On [REDACTED] and [REDACTED] 2018, and [REDACTED] and [REDACTED] 2018, the Appellant was hospitalized at [REDACTED] in [REDACTED] County.
3. DECO has an office at [REDACTED]
4. The local department maintains an outreach office at [REDACTED]. This office, among other things, serves as a submission point for MA applications on behalf of the Department.
5. On or about November 26, 2018, DECO, acting as authorized representative of the Appellant, submitted an application for MA benefits under the X02 category to the local department's outreach office at [REDACTED]. The MA application was to obtain MA benefits for the two periods in [REDACTED] 2018 when the Appellant was hospitalized at [REDACTED]
6. On November 27, 2018, the local department's outreach office returned the Appellant's MA application to DECO, without further action, because the Appellant does not live in [REDACTED] County.
7. On December 20, 2018, the Appellant, through DECO, filed an appeal. The basis of the appeal was "[t]he caseworker refused to evaluate my application."
8. As of the date of the hearing the Appellant's MA application has not been considered.
9. The Appellant has not applied for MA in [REDACTED] County for the purpose of obtaining MA benefits for her [REDACTED] 2018 hospitalizations at [REDACTED]

DISCUSSION

Procedural Background

Following the Appellant's appeal, on December 26, 2018, the OAH sent a Notice of Hearing to the parties, advising them a hearing would be conducted on Thursday, January 10, 2019, at the [REDACTED] in [REDACTED] Maryland. The Notice of Hearing was mailed to the Appellant, to the [REDACTED] and to Ms. [REDACTED].

On January 10, 2019, an Administrative Law Judge (ALJ) of the OAH convened the scheduled hearing. The [REDACTED] was present and was represented by [REDACTED] Appeals Representative. The Appellant's representative, Ms. [REDACTED] was not present. The Appellant appeared at the [REDACTED] on or about the scheduled hearing time but was dismissed prior to the hearing by Mr. [REDACTED] because Ms. [REDACTED] was not present.

The ALJ, after hearing from Mr. [REDACTED] postponed the hearing. The ALJ indicated in a case file note that Mr. [REDACTED] believed the hearing should be in [REDACTED] County.⁴ However, the ALJ did not direct the OAH clerk's office to alter the case to a [REDACTED] County-based caption, or instruct the clerk's office to issue a new Notice of Hearing for a [REDACTED] County hearing location.

On January 17, 2019, the OAH sent a Notice of Hearing to the parties, advising them a hearing on the Appellant's appeal would be conducted February 7, 2019, at 10:00 a.m., again at the [REDACTED] in [REDACTED] Maryland. The January

⁴ The OAH case file also contains an exchange of emails between the [REDACTED] and the OAH clerk's office. In this exchange, [REDACTED] a Quality Assurance and Compliance Division Administrative Assistant at the [REDACTED], advised the OAH that the matter belongs to [REDACTED] County, as that is the jurisdiction in which the Appellant was hospitalized. Ms. [REDACTED] is correct regarding the proper jurisdiction for this matter – [REDACTED] County – but for the wrong reason. The location of the hospitalization is not the decisive factor.

17, 2019 Notice of Hearing was sent to the Appellant, to [REDACTED] Physician Advisor, Department, in [REDACTED] to Ms. [REDACTED] and to [REDACTED] Appeals Representative, local department, in [REDACTED] Maryland.

On February 7, 2019 I convened the requested hearing. The Appellant was present, as was her authorized representative, Ms. [REDACTED]. No one else appeared at the hearing.⁵

Potential Eligibility

The Appellant, although she is an undocumented immigrant, may be eligible for MA under certain circumstances. Code of Maryland Regulations 10.09.24.05-2 provides:

.05-2 Nonfinancial Eligibility Requirements — Emergency Medical Services for Ineligible or Illegal Aliens.

A. An alien shall be eligible for federal Medical Assistance coverage of emergency medical services, as specified under §§B and C of this regulation, if the alien is determined by the Department to:

(1) Have received emergency medical services described under §§B and C of this regulation that are necessary for treatment of an emergency medical condition; and

(2) Meet all other requirements of Medical Assistance eligibility as specified in this chapter, including Maryland residency and financial eligibility, except the requirements related to:

- (a) Social Security number; and
- (b) Alien eligibility and declaration of immigration status. ...

Application Process

Code of Maryland Regulations 10.09.11.02B (Definitions) provides, in relevant part:

(18) “Insurance Affordability Program” means a program that is one of the following:

(a) The Maryland State Medicaid program . . .

Code of Maryland Regulations 10.09.24.04F (Application Filing and Signature Requirements), provides:

(1) An individual who wishes to apply for health coverage under an Insurance Affordability Program shall submit a written, telephonic, or electronic application signed under penalty of perjury to the Department or its designee .

⁵ Mr. [REDACTED] met the Appellant and Ms. [REDACTED] at the [REDACTED] and ushered them to the hearing room, but excused himself before the hearing because he had no information on the matter and considered it a [REDACTED] County case. Despite notice, no one from the local department appeared for the hearing.

in any jurisdiction. An applicant shall be responsible for completing the application but may be assisted in the completion by an individual of the applicant's choice.

(Emphasis added).

The Department provides written policy and guidance to local Departments of Social Services and local Health Departments regarding consideration of MA applications through the Maryland Medical Assistance Manual (MA Manual). In relevant part, the MA Manual provides:

400.1 Introduction -Application Process (Form)

An individual interested in applying for Medical Assistance (MA), or a representative may contact the Local Department of Social Service (LDSS) or Local Health Department (LHD) or go online at www.marylandsail.org to complete the appropriate application form, based on the type of coverage requested. The MA application form is the instrument [through] which information pertinent to the determination of eligibility is gathered from the Applicant/Representative (A/R) or the A/R's representative. DHMH⁶ designates which forms may be used as MA applications and which forms establish the application date. Screening forms, such as the DHR/FIA⁷ Cares⁸ 9711 Request for Assistance, are not approved by DHMH as MA application forms. A person requesting to file an MA application must be given an opportunity to apply without delay. The application must be made available to the person upon request. **The individual must complete the application and mail, fax or hand deliver it to their LDSS or LHD where they live.** Addresses of the LDSS or LHD are located in Appendix A and Appendix B. Applicants can also send your applications electronically through the Service Access & Information Link (SAIL) system at www.marylandsail.org.

(Emphasis added). MA Manual, Section 400.1, effective July 2012.

In a contested case, the OAH is bound by any agency regulation, declaratory ruling, prior adjudication, or other settled, preexisting policy, to the same extent as the agency is or would have been bound if it were hearing the case. Md. Code Ann., State Gov't § 10-214(b) (2014).

⁶ The Department was previously known as the Department of Health and Mental Hygiene, or DHMH, and on July 1, 2017 its name changed to the Maryland Department of Health.

⁷ Department of Human Resources (now the Department of Human Services)/Family Investment Administration.

⁸ Client Automated Resources Eligibility System of the Department of Human Services.

The Appellant argues the local department's outreach office at [REDACTED] improperly rejected her MA application because she does not reside in [REDACTED] County. She asked that I issue an order directing the local department to consider her November 26, 2018 application.

I disagree with the Appellant. Code of Maryland Regulations 10.09.24.04F(1) provides that an MA application may be submitted "in any jurisdiction." The MA Manual, which cites COMAR 10.09.24.04 as its guiding regulation, establishes and clarifies the meaning of "any jurisdiction" to mean the applicant's jurisdiction of residence. Here, that is [REDACTED] County.

The MA Manual is the Department's established, pre-existing policy, and I am bound by it. Thus, I conclude the decision of the local department's outreach office at [REDACTED] to reject the Appellant's November 26, 2018 MA application because the Appellant does not live in [REDACTED] County was correct.

CONCLUSION OF LAW

Based on the foregoing Findings of Fact and Discussion I conclude as a matter of law the [REDACTED] correctly rejected the Appellant's November 26, 2018 application for Medical Assistance benefits because she does not live in [REDACTED] County. COMAR 10.09.24.04F, MA Manual, Section 400.1:

ORDER

I hereby **ORDER** that the decision of the [REDACTED] [REDACTED] to reject the Appellant's November 26, 2018 Medical Assistance application because she does not live in [REDACTED] County is **AFFIRMED**.

February 12, 2019
Date Decision Mailed

Signature Appears on Original
[REDACTED]

Michael R. Osborn
Administrative Law Judge

REVIEW RIGHTS

This is the final decision of the Maryland Department of Health. A party aggrieved by this final decision may file a written petition for judicial review with the Circuit Court for Baltimore City, if any party resides in Baltimore City or has a principal place of business there, or with the circuit court for the county where any party resides or has a principal place of business. Md. Code Ann., State Gov't § 10-222(c) (Supp. 2018). The original petition must be filed in the circuit court within thirty days of the date of this decision, with a copy to David Lapp, Office of the Attorney General, Suite 302, 300 W. Preston St., Baltimore, MD 21201. Md. Rules 7-201 through 7-210.

The petition for judicial review should identify the Maryland Department of Health, which administers the Medicaid program, as the agency that made the decision for which judicial review is sought. The address of the Maryland Department of Health should be included on the petition: 201 W. Preston St., Room 511C, Baltimore, MD 21201.

A separate petition may be filed with the court to waive filing fees and costs on the ground of indigence. Md. Rule 1-325. No fees may be charged to Medical Assistance Program recipients, applicants, or authorized representatives for transcription costs or for preparation or delivery of the record to the circuit court. The Office of Administrative Hearings is not a party to the judicial review process.

Copies Mailed To:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]