

██████████,

APPELLANT

v.

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████████████████████████████████████████

██████████

\* BEFORE PATRICK E. MAHER,  
\* ADMINISTRATIVE LAW JUDGE,  
\* THE MARYLAND OFFICE  
\* OF ADMINISTRATIVE HEARINGS  
\*  
\* OAH No.: MDH-██████████-10B-22-07175

\* \* \* \* \*

**DECISION**

STATEMENT OF THE CASE  
ISSUES  
SUMMARY OF THE EVIDENCE  
FINDINGS OF FACT  
DISCUSSION  
CONCLUSION OF LAW  
REMAND ORDER

**STATEMENT OF THE CASE**

On March 11, 2020, ██████████ (██████████),<sup>1</sup> on behalf of ██████████ (Appellant), filed an application with the ██████████ (local department) for the Appellant to receive Medical Assistance (MA) under the X02 category. The local department processes and makes determinations on such applications on behalf of the Maryland Department of Health (MDH).

The Appellant met the criteria for MA eligibility for emergency hospitalization at ██████████ on ██████████, 2019. The MDH did not provide the local department with written approval of the Appellant’s application. As a result, the local department has not sent the Appellant notice of her MA eligibility determination. On March 29, 2022, the

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<sup>1</sup> ██████████ is the Appellant’s authorized representative. Code of Maryland Regulations (COMAR) 10.01.04.12.

Appellant's authorized representative filed an appeal due to undue delay of an eligibility decision.

On May 4, 2022, I conducted a telephone hearing.<sup>2</sup> [REDACTED] and [REDACTED], Family Investment Specialists, represented the local department. [REDACTED] from [REDACTED] represented the Appellant, who was not present.

The contested case provisions of the Administrative Procedure Act, the Procedures for Fair Hearing Appeals under the Maryland State MA Program, and the Rules of Procedure of the OAH govern procedure in this case.<sup>3</sup>

### **ISSUES**

- 1) Did the local department fail to properly process the Appellant's application for benefits?
- 2) If so, what is the appropriate remedy?

### **SUMMARY OF THE EVIDENCE**

#### **Exhibits**

I admitted the following document offered on behalf of the local department:

LD #1 - Local Department Summary for Appeal Hearing

The Appellant did not offer any exhibits for admission into evidence.

### **FINDINGS OF FACT**

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

1. The Appellant applied for MA on March 11, 2020. She is not a United States citizen.
2. The Appellant was hospitalized and received emergency medical services at [REDACTED] [REDACTED] on [REDACTED] 2019.

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<sup>2</sup> COMAR 10.01.04.02; COMAR 28.02.01.20B(1)(a).

<sup>3</sup> Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021); COMAR 10.01.04 and 28.02.01.

3. The Appellant met all of the technical, financial, and medical requirements for MA eligibility; however, the MDH has not issued the Appellant a formal approval letter.

## DISCUSSION

### Burden of Proof

When not otherwise provided by statute or regulation, the standard of proof in a contested case hearing before the OAH is a preponderance of the evidence, and the burden of proof rests on the party making an assertion or a claim.<sup>4</sup> To prove an assertion or a claim by a preponderance of the evidence means to show that it is “more likely so than not so” when all the evidence is considered.<sup>5</sup>

In this case, the Appellant bears the burden by a preponderance of the evidence to show she is eligible for MA.<sup>6</sup>

Generally, an applicant or recipient for MA is required to provide documentary evidence of identity as well as citizenship and nationality.<sup>7</sup> Emergency medical services, including labor and delivery services, are for the treatment of an emergency medical condition that, after a sudden onset, manifests itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention can reasonably be expected to result in:

- (1) Placing the individual’s health in serious jeopardy;
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.<sup>8</sup>

Emergency medical services begin when the individual enters a hospital to receive the emergency medical services and continue until the individual’s emergency medical condition or

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<sup>4</sup> Md. Code Ann., State Gov’t § 10-217 (2021); COMAR 28.02.01.21K.

<sup>5</sup> *Coleman v. Anne Arundel Cty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002).

<sup>6</sup> COMAR 28.02.01.21K(1)-(2)(a).

<sup>7</sup> See COMAR 10.09.24.05-1.

<sup>8</sup> COMAR 10.09.24.05-2B.

other medical condition requiring the emergency medical services is stabilized, as determined by the MDH.<sup>9</sup>

COMAR provides that when an applicant files for MA, the local department of social services shall make an eligibility decision promptly, but not later than thirty days from the date of application.<sup>10</sup> The local department concedes that the Appellant is financially and medically eligible for MA. However, the MDH has failed to issue an eligibility determination letter.

As there is no dispute that the Appellant is eligible for MA, I will remand this matter to the MDH to expeditiously send an eligibility letter to the Appellant.

**CONCLUSION OF LAW**

Based on the foregoing Findings of Fact and Discussion, I conclude that the Maryland Department of Health has failed to timely issue a letter of eligibility based on the Appellant's March 11, 2020, application for Medical Assistance benefits.<sup>11</sup>

**REMAND ORDER**

This case is **REMANDED** to the Maryland Department of Health.

I **ORDER** the Maryland Department of Health and the [REDACTED] [REDACTED] to send the Appellant a notice of eligibility within thirty days of the date of this decision.

The Appellant shall retain the right to appeal any decision made by the local department.

June 23, 2022  
Date Order Mailed

Signature Appears on Original  
[REDACTED]

\_\_\_\_\_  
Patrick E. Maher  
Administrative Law Judge

PEM/emh  
#199098

<sup>9</sup> *Id.*

<sup>10</sup> COMAR 10.09.24.04I(1)(b).

<sup>11</sup> *Id.*

**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) (2021). The original petition must be filed in the circuit court within thirty (30) days of the date of this decision, with a copy to [REDACTED], 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]  
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**FILE EXHIBIT LIST**

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