



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 8, 2016
MAHS Docket No.: 16-009792
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on August 25, 2016, from Sterling Heights, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly processed Petitioner's redetermination of Medical Assistance (MA) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing Medicaid recipient through the Healthy Michigan Plan.
2. Petitioner was a disabled individual who received Medicare.
3. On [REDACTED], MDHHS terminated Petitioner's MA eligibility, effective July 2016, in part, based on a determination that Petitioner was not disabled.
4. On [REDACTED], Petitioner requested a hearing to dispute the termination of MA benefits.

CONCLUSIONS OF LAW

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RTM). HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGIM).

Petitioner requested a hearing to dispute a termination of MA benefits. Petitioner presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-4) dated [REDACTED]; MDHHS did not dispute this was the applicable notice. The notice informed Petitioner she was ineligible for various Medicaid categories for various reasons. Petitioner specifically objected to her ineligibility for HMP and Medicaid based on disability.

It was not disputed Petitioner was previously eligible to receive MA benefits through HMP. MDHHS' written notice stated Petitioner was not eligible to receive HMP because she also receives Medicare.

The following are [persons] excluded from enrollment in a health plan... [p]ersons with commercial HMO coverage, including Medicare HMO coverage. MAGIM (May 28, 2014) p. 40. Thus, Petitioner's Medicare eligibility disqualifies her from HMP eligibility.

It is found MDHHS properly terminated Petitioner's HMP eligibility. Petitioner's potential Medicaid eligibility through AD-Care will be examined.

[AD-care] is an SSI-related Group 1 MA category. BEM 163 (July 2013), p. 1. This category is available to persons who are aged or disabled (AD). *Id.*

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (July 2016), p. 2. A notice of case action must specify... the action(s) being taken by the department [and] the reason(s) for the action. *Id.*

The presented notice of MA termination indicated Petitioner was not disabled, and therefore, not eligible for MA benefits based on disability. MDHHS conceded the written notice listed an incorrect reason for denying Petitioner Medicaid based on disability. MDHHS attempted to circumvent their error by providing an alternate basis for denial of Medicaid based on disability within their case summary.

MDHHS alleged Petitioner was ineligible for AD-Care due to Petitioner's assets exceeding program limits; the MDHHS allegation seemed supported. Discussions

during the hearing were indicative that excess income might render Petitioner to be ineligible to receive AD-Care. Despite Petitioner's probable ineligibility for AD-Care, MDHHS failed to send the proper notice reason in issuing written notice. MDHHS could have cured the procedural error by issuing written notice to Petitioner listing the actual reason(s) for denial; it was not disputed that proper written notice was never issued.

It is found MDHHS improperly terminated Petitioner's MA eligibility due to a failure to send Petitioner written notice of reasons for denial. Petitioner should be warned that MDHHS is not precluded from immediately terminating Petitioner's MA eligibility following compliance with the below order.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's MA eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's MA eligibility, effective July 2016, subject to the findings that Petitioner is disabled and that MDHHS failed to issue a notice of termination stating any other basis for terminating Petitioner's MA eligibility; and
- (2) Supplement Petitioner for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]