



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 23, 2016
MAHS Docket No.: 16-010322
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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, a telephone hearing was held on August 25, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner and her son's Medical Assistance (MA) cases?

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 recipient of MA benefits under the Group 2 Caretaker Relatives (G2C) program and Medicare Savings Program (MSP) benefits. (Exhibit D)
2. Petitioner's minor child, Child A is [REDACTED] years old and was an ongoing recipient of MA benefits under the Under Age 19 (U-19) program for Other Healthy Kids (OHK). (Exhibit D)
3. In connection with a redetermination, Petitioner and her son's eligibility for MA benefits was reviewed.

4. On April 22, 2016, the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit proof of checking account information by May 2, 2016. (Exhibit A)
5. In May 2016, Child A became employed and on or around June 23, 2016, a New Hire Notice was generated requesting 30 days of income verification for Child A.
6. Petitioner timely returned the completed New Hire Notice and one paystub.
7. On July 7, 2016, the Department sent Petitioner a VCL instructing her to submit 30 days of income verification for Child A by July 18, 2016. (Exhibit B)
8. On July 11, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising her that effective August 1, 2016, she was ineligible for MA benefits on the basis that she failed to return verification of her bank account checking information and verification of earned income for Child A.
9. The Notice also informs Petitioner that effective August 1, 2016, Child A was ineligible for MA on the basis that his income exceeds the limit and on the basis that verification of Petitioner's bank account checking information was not returned. (Exhibit C)
10. On July 21, 2016, Petitioner requested a 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, Petitioner requested a hearing disputing the Department's actions with respect to the closure of MA benefits for herself and her son. With respect to MA benefits for Petitioner's son, at the hearing, the Department testified that Petitioner's son was determined to be eligible for MA under the U-19 OHK program and that his eligibility was approved for May 1, 2016, ongoing. (Exhibit D). The Department stated

that Petitioner's son was automatically eligible for MA for 12 months from May 1, 2016, and that the Notice dated July 11, 2016, should not have been issued and his case not set for closure effective August 1, 2016. (Exhibit C). BEM 131 provides that U-19 beneficiaries remain eligible for 12 months of continuous eligibility, unless the beneficiary: reaches age 19; moves out of state; is ineligible due to institutional status, or dies. BEM 131 (June 2015), p. 2. The Department testified that the closure reason listed on the Notice regarding excess income was incorrect, as the Department conceded Child A continued to be eligible for MA for 12 months. Additionally, there is no asset test for U-19 OHK eligibility, thus the closure reason listed on the Notice concerning the failure to return bank checking account information is also improper. BEM 131, p. 2. Although the Department stated that Child A's MA was approved and active with no lapse in benefits since May 1, 2016, it was unclear if this action was taken due to the timely filing of Petitioner's hearing request or the Department correcting the action and reprocessing Child A's eligibility. Therefore, the Department will be ordered to activate Child A's MA benefits for May 1, 2016, ongoing.

With respect to Petitioner's MA benefits, the Department asserted that Petitioner's MA and MSP cases properly closed effective August 1, 2016, on the basis that she failed to verify requested information. Additional verifications may be required at redetermination. For MA cases, verifications are due the same date as the redetermination. The Department allows a client a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. Bridges gives timely notice of the negative action if the time limit is **not** met. BAM 210 (July 2016), pp. 15-16. MA benefits stop at the end of the benefit period unless a redetermination is completed, requested verifications are received and a new benefit period is certified. BAM 210, p. 2. The Department will provide the client with timely notice of the negative action if the time limit is not met. BAM 210, p.14.

The Department testified that in connection with a redetermination, the Department sent Petitioner a VCL instructing her to submit proof of her bank account checking information by May 2, 2016. (Exhibit A). The Department stated that because she failed to timely submit verification of her checking account information, it sent Petitioner a July 11, 2016, Notice advising that effective August 1, 2016, her MA case would be closed based on a failure to return verification of her bank account and on the basis that she failed to return verification of earned income for Child A. (Exhibit C). Petitioner disputed the Department's testimony and maintained that upon receiving the VCL, she submitted verification of her bank account information and mailed it to the Department in the self-addressed envelope provided at the beginning of May 2016, prior to the due date. While the Department testified that Petitioner's MSP benefits were also closed, the Notice does not reference MSP and the eligibility summary provided does not include Petitioner's MSP eligibility, thus it was unclear exactly what actions were taken with respect to Petitioner's MSP benefits.

Additionally, It should be noted that the due date listed on the VCL instructing Petitioner to submit verification of Child A's earned income was July 18, 2016, after the date in which the July 11, 2016, Notice of MA case closure was issued. Furthermore, the

Department conceded that the July 7, 2016, VCL should not have been sent to Petitioner, as Child A's earnings do not impact her MA or MSP eligibility.

Upon further review of the evidence presented and the Department policy, the Department has failed to establish that it acted appropriately with respect to MA and MSP cases as there were clearly noted errors in processing of Petitioner's MA and MSP benefits. As such, the Department has failed to establish that it acted in accordance with Department policy when it closed Petitioner's MA and MSP cases effective August 1, 2016.

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 processed and closed Petitioner and her son's MA cases.

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. Activate Child A's MA benefits under the U-19 OHK program effective May 1, 2016, ongoing;
2. Provide Child A with MA coverage under the U-19 OHK program from May 1, 2016, ongoing, in accordance with Department policy;
3. Reinstate Petitioner's MA and MSP cases effective August 1, 2016;

4. Provide Petitioner with MA and MSP coverage under the most beneficial category from August 1, 2016, ongoing, in accordance with Department policy; and
5. Notify Petitioner in writing of its decisions.



ZB/tlf

Zainab A. Baydoun

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]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via Email:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]