



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
Date Mailed: October 21, 2016
MAHS Docket No.: 16-012511
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, a telephone hearing was held on October 13, 2016, from Detroit, 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 terminated Petitioner's and her child's 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 recipient of MA benefits through the Freedom-to-Work (FTW) category.
2. Petitioner's minor child was an ongoing recipient of MA benefits through the Other Healthy Kids (OHK) category.
3. Petitioner and her minor child's MA eligibility was certified through August 2016.
4. On [REDACTED], MDHHS mailed Petitioner a Redetermination.
5. Petitioner failed to return the Redetermination to MDHHS.

6. On [REDACTED], MDHHS initiated termination of Petitioner's and her child's MA eligibility, effective September 2016, due to Petitioner's failure to return the Redetermination.
7. On [REDACTED], Petitioner requested a hearing to dispute the termination of MA eligibility to her and her daughter.

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 (RFT).

Petitioner requested a hearing to dispute a termination of MA benefits for her and a minor child. MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-4) dated August 19, 2016. The notice stated Petitioner and her child's MA eligibility would end due to Petitioner's failure to return redetermination documents.

The Michigan Department of Health and Human Services must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (July 2016), p. 1. The redetermination process includes thorough review of all eligibility factors. *Id.* A complete redetermination is required at least every 12 months. *Id.*, p. 2. Bridges sets the redetermination date according to benefit periods... *Id.*

MDHHS presented a Redetermination (Exhibit 1, pp. 5-10) dated [REDACTED]. It was not disputed Petitioner received the Redetermination and that she did not return the form.

Petitioner testimony contended she was justified in not returning the Redetermination because she had questions for MDHHS that went unanswered. An analysis of the contention requires a summary of Petitioner's testimony.

Petitioner testified she obtained private medical coverage for herself and her son, who attended college. Petitioner testified MDHHS then approved her for MA through Freedom-to-Work, which requires the payment of a premium. Petitioner testified she chose not to pay that premium so as not to jeopardize her and her son's privately obtained medical coverage. Petitioner eventually testified she wanted assurance from MDHHS that her and her minor child's Medicaid coverage did not disrupt the medical

coverage for her college-aged son. Petitioner testified she called her specialist many times and repeatedly failed to receive a response.

Petitioner's testimony seemed sincere, however, it is not appreciated why Petitioner thought Medicaid eligibility for her and/or her minor child would disrupt her son's medical coverage. It is also not appreciated why Petitioner did not utilize a section for comments on the Redetermination if she had conditions on her or her child's continuing medical coverage.

Petitioner certainly thought she had good reason for not returning the Redetermination, but her thought process did not excuse her failure to return required documentation. It is found Petitioner improperly failed to return a Redetermination.

Before July 2016, the MA redetermination process consisted of mailing a Redetermination to a client and determining ongoing eligibility based on the client's returned documentation. If a client did not return the Redetermination, MDHHS was justified in terminating benefits (see BAM 210 (October 2015)). As it happens, MDHHS policy changed beginning July 2016.

The following categories are considered MAGI related groups... Pregnant Women (PW, MOMS), Infants and Children under age 19 (LIF, Newborn, HK1, OHK HKE, MICHild), Parents and caretaker relatives (PCR, LIF). Adult Group age 19-64 (HMP) [, and] Former Foster Care Children (FCTM). BEM 105 (July 2016) p. 3. The Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (January 2016), p. 1.

[For MAGI Medicaid,] MDHHS must use information currently available in STATE OF MICHIGAN systems to renew eligibility. BAM 210 (July 2016) p. 1. [MDHHS is to...] not request information from the beneficiary if the information is already available to MDHHS. *Id.* This includes completing a renewal form. *Id.* Individuals must be able to select how many years to opt in to allowing MDHHS to access tax information to determine continuing eligibility, up to a maximum of 5 years. *Id.* Individuals must also have the opportunity to opt out of allowing the use of tax information. *Id.* Do not include individuals in the passive renewal process if this question is not answered on the application. *Id.*

Presented evidence was not sufficient in determining if Petitioner opted-out of the passive renewal process. If MDHHS is relying on MA closure based on a failure by a client to return forms, the burden of establishing an opting-out of the renewal process is properly placed on MDHHS.

It was not disputed Petitioner's child was an ongoing recipient of Medicaid through the Other Healthy Kids (OHK) program. OHK is a MAGI-related program, and therefore, redeterminations are subject to the passive renewal policy. It was not disputed that MDHHS did not redetermine Petitioner's child's OHK eligibility based on information

already available to MDHHS. Accordingly, the termination of Petitioner's child's MA eligibility was improper.

It was not disputed that Petitioner was eligible for Medicaid through Freedom-to-Work (FTW). FTW is not a MAGI-related program, and therefore, not subject to the passive renewal process. Accordingly, Petitioner is entitled to no remedy for the termination of her Medicaid eligibility due to her failure to return the Redetermination.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's MA eligibility, effective September 2016. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's child'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 minor child's MA eligibility, effective September 2016; and
- (2) Process Petitioner's child's MA eligibility subject to the finding that MDHHS is to utilize the "passive renewal" process to determine ongoing MA eligibility.

The actions taken by MDHHS are **PARTIALLY 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]