



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: December 9, 2016
MAHS Docket No.: 16-014675
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 [REDACTED], from Detroit, Michigan. Petitioner was present and represented herself. Her husband, [REDACTED], appeared on Petitioner's behalf. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payments Supervisor.

ISSUE

Did the Department properly close Petitioner and her husband's Medicaid (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 and her husband were ongoing recipients of MA benefits under a deductible program.
2. Petitioner and her husband are over age [REDACTED]
3. In [REDACTED], Petitioner completed a Redetermination concerning her ongoing MA eligibility.
4. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that her and her husband's MA cases would

close effective [REDACTED], because their deductible had not been met in at least one of the last three months (Exhibit A).

5. On [REDACTED], the Department received Petitioner's request for hearing disputing the closure of her and her husband's MA cases.

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.

Petitioner disputed the closure of her and her husband's MA cases. The Department explained that Petitioner and her husband had MA subject to a monthly deductible and that their MA cases closed in connection with a redetermination because their deductible had not been met for three of the preceding months.

Department policy provides that an active deductible case is closed when no one in the group meets all nonfinancial eligibility factors, countable assets exceed the asset limit, the group does not return the redetermination form, the group members cannot be located, or the group fails to provide needed information or verification. BEM 545 (October 2016), p. 13. The policy expressly provides that the Department may **not** close the case just because the group fails to verify sufficient allowable medical expenses to meet its deductible. BEM 545, p. 13. However, the policy further provides that, while MA eligibility for clients with active deductible cases must be renewed at least every 12 months, it is **not** renewed if (i) the group has not met its deductible in at least one of the three calendar months before the redetermination month **and** (ii) none of the group members are eligible for QMB (Qualified Medicare Beneficiaries), SLM (Specified Low-Income Medicare Beneficiaries), or ALM (Q1 Additional Low-Income Medicare Beneficiaries), the Department will automatically notify the group of closure. BEM 545, p. 11. When a client is QMB, SLM, or ALM eligible, the Department pays for the client's Part B Medicare premium. BEM 165 (October 2016), p. 2.

In this case, the Department testified that Petitioner and her husband had not met their deductible for the three months preceding their redetermination month. Petitioner

confirmed this information. However, the Department did not establish that Petitioner and her husband were not QMB, SLM or ALM eligible. Because an MA case can be closed at redetermination for failure to meet the deductible for the three months preceding the redetermination only if the client is not QMB, ALM, or SLM eligible, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner and her husband's MA cases.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner and her husband's MA cases for not meeting the deductible for at least one of the three months preceding the redetermination.

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. Reprocess Petitioner's MA redetermination;
2. Provide Petitioner and her husband with MA coverage they are eligible to receive, if any, from [REDACTED], ongoing; and
3. Notify Petitioner in writing of its decision.

ACE/tlf



Alice C. Elkin
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]

Petitioner

[REDACTED]

Via Email

[REDACTED]