



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: March 6, 2017
MAHS Docket No.: 17-001091
Agency Nos.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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. The Petitioner was present at the hearing and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist; and [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) benefits effective [REDACTED]?

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 full MA coverage.
2. Petitioner receives monthly Retirement, Survivors and Disability Insurance (RSDI) income.
3. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination (determination notice) notifying him that he was not eligible for MA coverage effective [REDACTED], because he failed to return his redetermination (under Case No. [REDACTED] Exhibit B, pp. 3-4.

4. On [REDACTED], Petitioner reapplied for MA benefits under Case No. [REDACTED] Exhibit A, p. 1.
5. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. Exhibit A, p. 2.
6. On [REDACTED], the Department sent Petitioner a determination notice notifying him that he was not eligible for full MA coverage because his income exceeded the limits, but instead, he was eligible for MA - Group 2 Spend-Down (G2S), subject to a monthly deductible of \$ [REDACTED] Exhibit A, pp. 3-7 and Exhibit B, p. 1.

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.

Preliminary matter

In this case, Petitioner reapplied for MA benefits on [REDACTED]; and he was found not eligible for full coverage MA due to excess income, but eligible for an MA deductible effective [REDACTED], (Case No. [REDACTED] Exhibit A, pp. 1 and 3-4. However, the Eligibility Summary shows that Petitioner was found eligible for MA-G2S, subject to a deductible, effective [REDACTED]. Exhibit B, p. 1. It is unclear why there is this discrepancy as to the start of Petitioner's deductible. Nevertheless, the undersigned Administrative Law Judge (ALJ) lacks the jurisdiction to address either the excess income denial or the calculation of the deductible because both actions occurred after the hearing request. Exhibit A, pp. 2-4. Petitioner can request another hearing if he is disputing the determination notice dated [REDACTED]. See BAM 600 (October 2016), p. 6. (The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing.) The request must be received in the local office within the 90 days). But, the undersigned ALJ does have the jurisdiction to address the closure of his MA benefits effective [REDACTED], because his hearing request was received within 90 days

of the determination notice dated [REDACTED], (under Case No. [REDACTED] Exhibit A, p. 2, and Exhibit B, p. 3. See BAM 600, p. 6.

MA redetermination

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2016), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (January 2017), p. 1. The redetermination /renewal process includes thorough review of all eligibility factors. BAM 210, p. 1.

Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1.

For Medicaid, a redetermination is an eligibility review based on a reported change. BAM 210, p. 1. A renewal is the full review of eligibility factors completed annually. BAM 210, p. 1.

For the Modified Adjusted Gross Income (MAGI) Medicaid passive renewal process, MDHHS must use information currently available in STATE OF MICHIGAN systems to renew eligibility. BAM 210, p. 1. Do not request information from the beneficiary if the information is already available to MDHHS. BAM 210, p. 1. This includes completing a renewal form. BAM 210, p. 1. 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. BAM 210, p. 1. Individuals must also have the opportunity to opt out of allowing the use of tax information. BAM 210, p. 1. Do not include individuals in the passive renewal process if this question is not answered on the application. BAM 210, p. 1.

Only information that has changed or is missing may be requested from the beneficiary. BAM 210, p. 2. The beneficiary is not required to take any action, such as signing or returning a notice if there has been no change in their circumstances. BAM 210, p. 2. If the information is not sufficient to renew eligibility, MDHHS must send a pre-populated renewal form to the beneficiary. BAM 210, p. 2. Allow the beneficiary 30 calendar days to respond and return the renewal form. BAM 210, p. 2. MDHHS must notify the beneficiary of their eligibility and the basis for the determination. BAM 210, p. 2.

A complete redetermination/renewal is required at least every 12 months. BAM 210, p. 2.

For MA cases, benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. BAM 210, p. 3. Also, the renewal month is 12 months from the date the most recent complete application was submitted. BAM 210, p. 3.

The Department does not redetermine the following MA coverages:

- Special N/Support; see BEM 113.
- Title IV-E recipients; see BEM 117.
- Special needs adoption assistance recipients; see BEM 117.
- Department wards; see BEM 117.
- Supplemental Security Income (SSI) recipients; see BEM 150.

BAM 210, p. 3. Note, a review must be completed before closing an individual in one of these categories if the closure is for any reason other than total ineligibility for any MA (such as moved out of state or death). BAM 210, p. 4. The review must consider eligibility in all other MA categories. BAM 210, p. 4.

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 11. Exception, for FIP, SDA and FAP only, if any section of the redetermination/review packet has not been completed but there is a signature, consider the redetermination/review complete. BAM 210, p. 12. Complete any missing sections during the interview. BAM 210, p. 11. When a complete packet is received, record the receipt in Bridges as soon as administratively possible. BAM 210, p. 12. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p. 12.

For MA cases, benefits are not automatically terminated for failure to record receipt of the renewal packet. BAM 210, p. 12.

In the present case, Petitioner was disputing his entire MA program, including his MA closure and the calculation of his deductible. Petitioner's MA closure effective [REDACTED], was based on his failure to return a redetermination. See Exhibit B, p. 3, (under Case No. [REDACTED]). The Department generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. BAM 210, p. 7, (Redetermination/renewal forms may include the DHS-1010 (Redetermination)). However, the Department failed to provide any documented evidence showing that a Redetermination was sent to him. As such, the undersigned ALJ finds that the Department improperly closed his MA benefits effective [REDACTED], because it failed to satisfy its burden of showing that it sent Petitioner a Redetermination (DHS-1010). See BAM 210, pp. 1-12. Accordingly, the Department will redetermine his MA eligibility, which includes the Redetermination process, effective [REDACTED], in accordance with Department policy.

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's MA benefits effective [REDACTED], (Case No. [REDACTED]).

Accordingly, the Department's MA 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. Redetermine Petitioner's MA eligibility for [REDACTED], (the redetermination process);
2. Issue supplements to Petitioner for any MA benefits he was eligible to receive but did not from [REDACTED], ongoing; and
3. Notify Petitioner of its decision.

EJF/jaf



Eric J. Feldman
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]

[REDACTED]