



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: May 9, 2017
MAHS Docket No.: 17-003317
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 [REDACTED], 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 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 Healthy Michigan Plan (HMP) benefits.
2. On [REDACTED], MDHHS mailed a Redetermination to Petitioner.
3. On [REDACTED], Petitioner returned some of the Redetermination pages.
4. MDHHS failed to establish if Petitioner opted into the passive renewal process.
5. On [REDACTED], MDHHS initiated a termination of Petitioner's MA eligibility, effective [REDACTED], due to Petitioner's failure to return all pages of a Redetermination.

6. On [REDACTED], Petitioner requested a hearing to dispute the MA benefit termination.

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).

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. 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. MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, p. 7) dated [REDACTED]. The notice stated Petitioner's MA eligibility would end due to Petitioner's alleged failure to return a Redetermination.

The Michigan Department of Health & Human Services 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. *Id.*

[For all programs,] Bridges 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. *Id.*, p. 7. A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. *Id.*, p. 11.

MDHHS policy is indicative that a client's failure to fully complete and return a Redetermination justifies a termination of MA eligibility. It was not disputed that Petitioner was mailed a Redetermination and failed to return all pages of a Redetermination (see Exhibit 1, pp. 3-5).

Consideration was given to affirming the termination of Petitioner's MA eligibility due to Petitioner's failure to return a fully-completed Redetermination. As it happens, the

requirement to return a Redetermination may not be applicable to Petitioner's circumstances.

MDHHS presented MA – Notice Reasons (Exhibit 1, p. 6). The document listed Petitioner as an HMP recipient. HMP is a MAGI-related Medicaid category.

[FOR MAGI-related MA,] MDHHS must use information currently available in STATE OF MICHIGAN systems to renew eligibility. *Id.*, 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.* Only information that has changed or is missing may be requested from the beneficiary. *Id.*, 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. *Id.* If the information is not sufficient to renew eligibility, MDHHS must send a pre-populated renewal form to the beneficiary. *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.*, p. 1. "Opting-in" is understood to be an option on the application for MA benefits.

Unfortunately, the hearing did not address whether Petitioner opted into the passive renewal process. Presented evidence was not sufficient to justify any inferences concerning whether Petitioner opted into the passive renewal process. The lack of evidence concerning whether Petitioner opted for passive renewal justifies consideration of which party had the burden of proof.

MDHHS could have presented Petitioner's application which would have definitively determined whether Petitioner opted into the passive renewal process. Generally, MDHHS has the burden to prove all factors, reasonably within their knowledge, that are relevant to a case action. This generality would justify finding that MDHHS had the burden to prove that Petitioner did not opt into the passive renewal process; presented evidence did not justify exception to the generality.

It is found MDHHS failed to establish whether Petitioner was required to return redetermination documentation. If MDHHS cannot establish that Petitioner's return of redetermination documents was mandatory, MDHHS cannot justify terminating Petitioner's MA eligibility. Accordingly, the termination of Petitioner's MA eligibility is found to be improper and the termination of Petitioner's MA eligibility will be reversed.

It cannot be found with certainty that MDHHS improperly failed to utilize passive renewal in redetermining Petitioner's MA eligibility. If it happens that Petitioner indeed did not opt into the passive renewal process, nothing prevents MDHHS from restarting the process of terminating Petitioner's MA eligibility.

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 reinstate Petitioner's MA eligibility, effective March 2017, within 10 days of the date of mailing of this decision. 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]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]