



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

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Date Mailed: May 31, 2018
MAHS Docket No.: 18-003485
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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; 42 CFR 438.400 to 438.424; 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 May 30, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Susan Engel, Hearing Facilitator.

ISSUE

Did the Department properly determine Medical Assistance (MA) program eligibility for her daughter?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On September 28, 2017, the Department issued a Health Care Coverage Determination Notice (HCCDN) indicating that Petitioner's daughter, ██████████ ██████████, was eligible for MA coverage with a \$ ██████████ monthly deductible effective October 1, 2017.
2. On October 19, 2017, the Department issued a second HCCDN informing Petitioner that her daughter was not eligible for MA benefits effective November 1, 2017, because the Department had not received Petitioner's verification of earned income.

3. On October 25, 2017, the Department issued a third HCCDN indicating that Petitioner's daughter was eligible for MA benefits with a deductible of \$ [REDACTED] effective November 1, 2017, and a deductible of \$ [REDACTED] effective December 1, 2017, ongoing.
4. From September 2017 through January 2018, Petitioner attempted to contact her case worker to seek clarification of the Department's decision.
5. In January 2018, four days past the 90-day period for requesting a hearing, Petitioner was able to speak with her case worker's supervisor who advised Petitioner to file a hearing request or file a new application for MA benefits for her daughter.
6. On January 28, 2018, Petitioner filed a new application for MA benefits for her daughter and specifically requested unpaid medical expenses for October, November, and December of 2017.
7. The Department never issued a HCCDN based upon Petitioner's January 2018 application; instead, the Department treated it as a change report since Petitioner's daughter had open and ongoing MA coverage with a deductible.
8. On March 26, 2018, the Department received Petitioner's hearing request disputing its determination of MA coverage for her daughter and requesting payment for her daughter's medical costs incurred from October 2017 through March 2018.

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 believes that the Department should be responsible for paying medical expenses incurred from October 2017 through March 2018 because she was inadequately informed of the nuances of program eligibility for her daughter. Before

addressing this issue, the issue of timeliness of the request for hearing and the Department's issuance of a decision after Petitioner's application must be addressed.

Petitioner received three HCCDNs between September and October 2017. Traditionally, each of these HCCDNs contains information about appeal rights. The HCCDNs dated September 18, 2017, and October 19, 2017, provided by Petitioner for the hearing are each missing pages; and it is unclear whether the appeal information was included in each of those documents. However, the HCCDN from October 25, 2017, as provided by the Department, includes information on appeal rights on the final page of the document. The document clearly states that requests for appeals must be received within 90 days, or by January 23, 2018, in order to have a hearing on the issues addressed within the HCCDN. Clients have 90 days from the date of the written Notice of Case Action, HCCDN, or negative action of the Department to request a hearing. BAM 600 (January 2018), p. 6. Therefore, Petitioner's March 26, 2018, was well outside the time period allotted for review of the September and October 2017 HCCDNs.

However, Petitioner submitted an application for MA benefits on behalf of her daughter on January 28, 2018, seeking reimbursement for medical expenses from October through December 2017. The Department is required to certify program approval or denial of an application within 45 days. BAM 115 (January 2018), p. 17. In this case, the Department did not issue any form of decision or notice to Petitioner regarding the January 2018 application. Instead, it treated the application as a change report, despite there being no clear changes. Therefore, the Department did not follow policy because it failed to issue a decision. After waiting a reasonable period for a decision or action from the Department and having not received a decision or seen an action, Petitioner filed her hearing request on March 26, 2018. Since Petitioner's hearing request is based upon her belief that she should receive reimbursement for medical expenses incurred for her daughter from October through December 2017 as referenced in the application, the request for hearing is properly before the Michigan Administrative Hearing System (MAHS); and MAHS has jurisdiction to address Petitioner's concerns from October 2017 ongoing.

Effective October 2017, Petitioner's daughter was placed in the Group 2 Under 21 MA category. This category provides MA coverage to clients when a monthly deductible is met.

Children over age one and under age 19 are potentially eligible for three programs: (1) the Under Age 19 (U19) program; (2) the MiChild program; and (3) the Group 2 Under 21 (G2U) program. BEM 105 (April 2017), pp. 1, 3-4; BEM 130 (July 2016), p. 1; BEM 131 (June 2015), p. 1; BEM 132 (January 2015), p. 1. The U19 program is a Modified Adjusted Gross Income (MAGI)-related Group 1 MA category, meaning that it provides full-coverage MA without a deductible for children whose household's income, calculated in accordance with MAGI rules, meets the income eligibility limits. BEM 131, p. 1. Income eligibility for MiChild is also determined according to MAGI rules. BEM 130, p. 1. Children whose household income exceeds the income limit for U19 or MiChild eligibility are eligible for MA under the G2U category, with a deductible equal to

the amount the child's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the county in which the child resides and child's fiscal group size. BEM 132, p. 2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1. Under federal law, the child is entitled to the most beneficial category, which is the one that results in eligibility, the least amount of excess income, or the lowest cost share. BEM 105, p. 2.

In this case, Petitioner agrees with the Department's calculation of her income and agrees that her daughter should be placed in the Group 2 Under 21 program. However, Petitioner believes that because the Department failed to properly communicate with her, specifically her case worker, about the implications of a deductible program, the Department should reimburse her for medical expenses incurred from the time of the implementation of the program through the time she became aware of its consequences. There is no policy to support the decision that Petitioner is seeking simply because she felt she was not adequately informed. A person is either eligible for a program or not. In addition, both HCCDN from September 28, 2017, and October 25, 2017, provide information about the deductible MA program on page 2 stating

You meet all of the requirements to receive Medicaid except income. You may become eligible for Medicaid when your allowable expenses are more than your deductible amount. The deductible amount is monthly countable income minus the monthly amount we can allow for living expenses. Your deductible amount or eligibility may change if there are changes in your circumstances, such as changes in income, assets or family size...


The Department also provided a Deductible Report with the October 25, 2017, HCCDN for Petitioner's ease so that she could list her daughter's medical expenses as they were incurred. The HCCDN further provided instructions to list all medical expenses no matter how long ago the medical services were provided, and when the expenses were equal to or more than the deductible amount, to return the form to the Department. In reviewing, the medical expenses provided by Petitioner as part of her hearing request and to the Department, Petitioner has not met the deductible for any month since October 2017. Therefore, she cannot be reimbursed.

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 acted in accordance with Department policy when it determined Petitioner's daughter's MA eligibility and did not reimburse Petitioner for her daughter's medical expenses.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AM/



Amanda M. T. Marler
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) 763-0155; 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

Kathleen Verdoni
MDHHS-Saginaw-Hearings

Petitioner

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[REDACTED]
[REDACTED] MI [REDACTED]

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