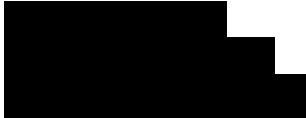




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 25, 2018
MAHS Docket No.: 18-003239
Agency No.: [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; 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 22, 2018, from Lansing, Michigan. Petitioner represented herself for the hearing. [REDACTED] Petitioner's spouse, was present for the hearing and provided testimony. The Department of Health and Human Services (Department) was represented by Susan Engel, Hearings Facilitator; and Serenity Salak, Assistant Payment Worker.

ISSUE

Did the Department properly provide Petitioner with Medical Assistance (MA) coverage she is eligible to receive from March 1, 2018, ongoing?

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 – AD-Care coverage until February 28, 2018. [Exhibit A, pp. 1 and 29-30.]
2. On February 26, 2018, Petitioner submitted her redetermination and she indicated she was disabled in the form. [Exhibit A, pp. 2 and 7-14.]
3. As a result of the redetermination, the Department re-determined Petitioner's eligibility and determined she was eligible for Healthy Michigan Plan (HMP) coverage, rather than AD-Care coverage. [Exhibit A, pp. 1-2.]

4. Effective March 1, 2018, ongoing, Petitioner's MA benefits were converted to HMP benefits. [Exhibit A, pp. 24 and 29-30.]
5. On March 13, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was eligible for MA benefits. [Exhibit B, pp. 1-3.]
6. On March 22, 2018, Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 3-4.]

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 the present case, Petitioner was an ongoing recipient of AD-Care coverage until February 28, 2018. [Exhibit A, pp. 1 and 29-30.] On February 26, 2018, Petitioner submitted her redetermination and she indicated she was disabled in the form. [Exhibit A, pp. 2 and 7-14.] As a result of the redetermination, the Department re-determined Petitioner's eligibility and determined she was eligible for HMP coverage, rather than AD-Care coverage. [Exhibit A, pp. 1-2.] Effective March 1, 2018, Petitioner's MA benefits were converted to HMP benefits. [Exhibit A, pp. 24 and 29-30.] On March 13, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was eligible for MA benefits. [Exhibit B, pp. 1-3.] As a result, Petitioner is requesting that her MA benefits go back to AD-Care coverage. [Exhibit A, pp. 2-4.]

Shortly after commencement of the hearing, the Department indicated that it did not conduct a proper ex parte review of Petitioner's MA eligibility and that it appears Petitioner should be eligible for AD-Care coverage. The Department testified that Petitioner presented evidence showing that her Supplemental Security Income (SSI) payments were stopped beginning March 2015 due to her spouse's disability payment making her ineligible. [Exhibit 1, pp. 1-4.] Although Petitioner's SSI payments had ceased, the evidence appears to show that Petitioner was still recognized as being disabled by the Social Security Administration (SSA). [Exhibit 1, pp. 1-4.] And because Petitioner was still considered disabled by SSA, she should have continued to be

eligible for AD-Care coverage. As such, the Department argued that it did not conduct a proper ex parte review of Petitioner's eligibility upon receipt of the redetermination.

AD-Care is an SSI-related Group 1 MA category. BEM 163 (July 2017), p. 1. This category is available to persons who are aged or disabled. BEM 163, p. 1. Net income cannot exceed 100% of the poverty level. BEM 163, p. 1. All eligibility factors in this item must be met in the calendar month being tested. BEM 163, p. 1.

An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. BAM 210 (January 2018), p. 2; BEM 163, p. 3.

When possible, an ex parte review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. BAM 210, p. 2; BEM 163, p. 3. The review includes consideration of all MA categories; see BAM 115 and 220. BAM 210, p. 2; BEM 163, p. 3.

Based on the foregoing information and evidence, the undersigned finds that the Department failed to conduct a proper ex parte review of her case to determine if she is eligible for the most beneficial MA category that she was eligible to receive effective March 1, 2018, ongoing. As stated above, the Department acknowledged that it did not conduct a proper ex parte review of Petitioner's MA eligibility for the most beneficial MA category. This error by the Department is based on evidence appearing to show that Petitioner was still considered disabled by SSA, despite her SSI payments being ceased. [Exhibit 1, pp. 1-4.] And because Petitioner was still considered disabled by SSA, she should have continued to be eligible for AD-Care coverage. Of note, the undersigned Administrative Law Judge (ALJ) is not concluding that Petitioner is eligible for AD-Care coverage, but that the Department never conducted a proper review of her eligibility. The undersigned will order the Department to redetermine Petitioner's MA eligibility for the most beneficial MA category she is eligible to receive for March 1, 2018, ongoing, in accordance with Department policy. BAM 210, p. 2; BEM 163, p. 3.

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 conduct a proper ex parte review of her case to determine if she is eligible for the most beneficial MA category that she was eligible to receive effective March 1, 2018, ongoing.

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 effective March 1, 2018;
1. Provide Petitioner with the most beneficial MA coverage she is eligible to receive for March 1, 2018, ongoing; and
2. Notify Petitioner of its decision.

EF/nr



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) 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
411 East Genesee
PO Box 5070
Saginaw, MI
48607

Saginaw County DHHS- via electronic
mail

BSC2- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

