



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: August 2, 2018
MAHS Docket No.: 18-006765
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 August 1, 2018, from Lansing, Michigan. The Petitioner appeared and testified. [REDACTED] [REDACTED] appeared as a witness. The Department of Health and Human Services (Department) was represented by Kathleen Scorpio, Hearings Facilitator.

ISSUE

Did the Department properly changed Petitioner's MA category from HMP to G2S?

FINDINGS OF FACT

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

1. At all relevant times, Petitioner has been on disability RSDI, eligible for Part A and B, and is under 65.
2. For the last 4 years, Petitioner has been in HMP in error. Petitioner should have been on the medical category G2S with a \$762.00 deductible.
3. The Department testified that because the error was Department error, the Department would not attempt any recoupment of benefits from Petitioner for the last 4 years.
4. While Petitioner was on HMP, Petitioner had a transportation medical benefit that has changed since being placed on a spend-down.
5. Neither the Petitioner nor the Department witness was family with Petitioner's current transportation benefits.

6. On April 30, 2018 the Department issued a Health Care Coverage Determination Notice informing Petitioner that she was no longer eligible for HMP and would be changed to MA G2S for the reason that receives Medicare and is under 65.
7. Petitioner stipulated that there is no FAP issue that she disputes.
8. Petitioner testified that she asked for a hearing to inquire about her transportation but failed to indicate this reason on her hearing request.

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 disputes her MA category of G2S and argues to remain on the HMP. In an eligibility case, Petitioner has the burden of proof by a preponderance of evidence.

Here, the department testified that under BEM 137, if an individual is on Medicare, Part A, and Part B, and under 65, then that individual does not have HMP eligibility. The department testified that Petitioner has been on HMP for 4 years due to Department error. Petitioner has no legitimate argument that she is entitled to any welfare benefits or any specific MA program over another where she is not otherwise eligible.

Petitioner also argued that she cannot meet her spend-down. The Department does not dispute that Petitioner's expenses exceed her income. However, such is irrelevant to the calculation of the spend-down budget. Petitioner does not dispute with any specifics any of the budgeted items used in calculating her eligibility. Petitioner has not brought forth any credible or substantial evidence of eligibility other than the MA category of G2S. See BEM 137.

Petitioner also requests transportation as she was previously eligible for a medical transportation benefit while on the HMP program. Petitioner offered no proof of eligibility under any authority; the Respondent said that Petitioner does not have any medical transportation benefit under the G2S program.

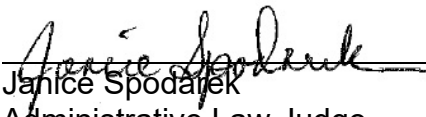
Petitioner and the Department are both advised to review BAM 825 that discusses Petitioner's transportation eligibility. However, as to this hearing, absent and application and/or denial, the undersigned has no jurisdiction to review a future event which has not taken place.

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 corrected its prior mistake and changed Petitioner to the G2S MA category.

DECISION AND ORDER

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

JS/nr



Janice Spodarek
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

Lauren Casper
27690 Van Dyke
Warren, MI
48093

Macomb 20 County DHHS- via electronic
mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI