



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: December 19, 2018
MAHS Docket No.: 18-011548
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: John Markey

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 December 13, 2018, from Lansing, Michigan. Petitioner appeared and represented himself. Also appearing on behalf of Petitioner was Petitioner’s wife, ██████████ ██████████. The Department of Health and Human Services (Department) was represented by Natalie McLaurin, Hearings Facilitator. During the hearing, a 56-page packet of documents was offered and admitted as Exhibit A, pp. 1-56.

ISSUE

Did the Department properly determine Medicaid (MA) eligibility for ██████████ Petitioner’s son?

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’s wife, ██████████ ██████████ gave birth to their son, ██████████ on or about ██████████ ██████████
2. In May 2018, Petitioner obtained from the Department MA benefits for ██████████ under the MA under age one (HK1) program.
3. On ██████████ ██████████ 2018, Petitioner submitted to the Department an application for MA benefits for ██████████. On the application, Petitioner informed the Department that ██████████ was disabled. Exhibit A, pp. 14-19.

4. On August 31, 2018, [REDACTED] was approved for full-coverage MA Children Under 19 (MA-U19). Exhibit A, p. 43.
5. On September 11, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that [REDACTED] was eligible for full-coverage MA benefits from September 1, 2018 through September 30, 2018. Petitioner was informing that starting October 1, 2018, ongoing, [REDACTED] was eligible for MA benefits subject to a \$ [REDACTED] monthly deductible under the G2S program. Exhibit A, pp. 25-31.
6. On [REDACTED] [REDACTED] Petitioner submitted to the Department a request for hearing objecting to the Department's determination with respect to [REDACTED] MA eligibility.

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's son, [REDACTED] was an ongoing recipient of MA benefits from the Department under the HK1 program. Before [REDACTED] first birthday, Petitioner submitted an application to the Department requesting MA benefits for [REDACTED]. In the application, Petitioner notified the Department that [REDACTED] is disabled. On August 31, 2018, the Department approved [REDACTED] for full-coverage under the U19 program, effective September 1, 2018. At the same time, the Department approved [REDACTED] for MA coverage under the G2S program subject to a \$ [REDACTED] monthly deductible, effective October 1, 2018. Thus, as of October 1, 2018, [REDACTED] U19 coverage was cancelled.

An *ex parte* review is required before Medicaid closures when there is an actual or anticipated change. BAM 210 (January 2018), p. 2. The review includes consideration of the client's eligibility under all MA categories. BAM 210, p. 2.

[REDACTED] full-coverage under the MA-U19 program was closed effective October 1, 2018. Prior to closure, the Department failed to do an *ex parte* review as required by policy. During the hearing, the Department witness testified that the Department erred in failing to complete the *ex parte* review and conceded that the Department's decision was not made pursuant to Department policy. The Department witness further testified that the

appropriate course of action would be to conduct the *ex parte* review, including making a determination as to whether [REDACTED] is disabled as alleged in Petitioner's application for benefits and then thereafter analyze [REDACTED] eligibility under all MA programs.

DECISION AND ORDER

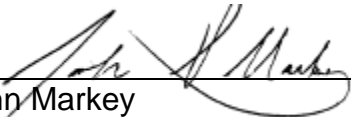
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed [REDACTED] MA-U19 benefit case.

Accordingly, the Department's 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. Reinstate [REDACTED] MA coverage under the U19 program effective October 1, 2018;
2. Conduct an *ex parte* review of [REDACTED] MA eligibility, including making a determination whether [REDACTED] is disabled;
3. Provide [REDACTED] with any MA coverage he is eligible to receive from October 1, 2018, ongoing; and
4. Notify Petitioner of its MA decision in writing.

JM/nr



John Markey
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

[REDACTED]
[REDACTED], MI
[REDACTED]