



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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████████████████████, MI ██████████

Date Mailed: February 15, 2019
MAHS Docket No.: 18-013971
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's December 21, 2018, request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on February 14, 2019, from Lansing, Michigan. Petitioner, ██████████ ██████████ appeared with her son and representative, ██████████ ██████████ Family Independence Manager, Eileen Kott, and Eligibility Specialist, Yvette Ali, appeared for the Department. Neither party had any additional witnesses. ██████████ ██████████ assisted Petitioner with interpretation.

One exhibit was admitted into evidence during the hearing. A 70-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly terminate Petitioner's Medical Assistance (MA)?

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 is a Medicare recipient. The Department paid Petitioner's Medicare Part B premium through the Medicare Savings Program until April 1, 2018.
2. The Department ceased paying Petitioner's Medicare Part B premium on or about April 2018.
3. Petitioner did not receive any notice from the Department that it was going to cease paying her Medicare Part B premium.

4. Petitioner was unaware that the Department had ceased paying her Medicare Part B premium until the Social Security Administration advised her that her Medicare Part B premium had not been paid and her coverage was going to be cancelled as a result.
5. On December 20, 2018, the Department issued a notice to Petitioner to notify her that she was no longer eligible for the Medicare Savings Program effective March 1, 2018.
6. On December 21, 2018, Petitioner filed a hearing request to dispute the Department's termination of her Medicare Savings Program coverage.

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.

The Department must give timely notice at least 11 days in advance of negative action it intends to take, unless a policy specifies otherwise. BAM 220 (January 1, 2019), p. 4-5. Here, the Department did not present any evidence to establish that it sent Petitioner a timely notice of the termination of her Medicare Savings Program coverage before the Department terminated her coverage, and the Department did not cite any authority which would have permitted the Department to take such action without a timely notice. Thus, the Department's termination of Petitioner's Medicare Savings Program coverage was not in accordance with the Department's policies and the applicable law.

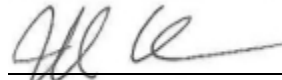
Although a hearing request is required to be filed within 90 days of a written notice of case action, the deadline does not apply here because the Department never issued a written notice of case action. BAM 600 (October 1, 2018). Therefore, the Petitioner's hearing request must be considered timely.

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 did not act in accordance with its policies and the applicable law when it terminated Petitioner's Medicare Savings Program coverage without notice.

IT IS ORDERED the Department's termination of Petitioner's Medicare Savings Program coverage is **REVERSED**.

JK/nr



Jeffrey Kemm
Administrative Law Judge
for Robert Gordon, 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

Dora Allen
14061 Lappin
Detroit, MI
48205

Wayne 76 County DHHS- via electronic
mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

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