



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: April 9, 2019
MAHS Docket No.: 19-001726
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 March 28, 2019, from Detroit, Michigan. Petitioner did not appear and was represented by her attorney and father, [REDACTED]. The Michigan Department of Health and Human Services (MDHHS) was represented by Donna Rojas, manager.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) eligibility.

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 was an ongoing recipient of Medicaid through the Health Michigan Plan (HMP).
2. At all relevant times, Petitioner was between 19-64 years, not pregnant, unmarried, and not the caretaker of minor children.
3. On an unspecified date, Petitioner began receiving \$1,254.50/month in RSDI benefits due to disability.
4. On an unspecified date, Petitioner began receiving Medicare.

5. On February 7, 2019, MDHHS determined Petitioner was ineligible for HMP, beginning March 2019, due to receipt of Medicare. MDHHS specifically determined Petitioner was ineligible for Medicaid under AD-Care due to Petitioner not being disabled.
6. On [REDACTED], 2019, Petitioner's AHR requested a hearing to dispute the Medicaid termination.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a determination of Medicaid benefits. A Health Care Coverage Determination Notice (HCCDN) dated February 7, 2019, stated that Petitioner was ineligible for Medicaid beginning March 2019. The notice listed various reasons for Petitioner's ineligibility under various Medicaid categories.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

MDHHS previously issued Medicaid to Petitioner under HMP. As a former HMP recipient, consideration of Petitioner's continued HMP eligibility is merited.

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013.

Petitioner's HMP eligibility was originally determined at a time when Petitioner did not receive RSDI or Medicare benefits. It was not disputed that Petitioner began receiving RSDI and Medicare benefits in 2018. HMP provides coverage only for persons who do not receive Medicare. BEM 137 (January 2019) p. 1. As Petitioner was a Medicare recipient as of March 2019, Petitioner was ineligible for further Medicaid eligibility under HMP. Thus, MDHHS properly terminated Petitioner's Medicaid eligibility under HMP.

As of the disputed benefit month, Petitioner was disabled, between 19-64 years, not pregnant, unmarried, and not the caretaker of minor children. Petitioner's circumstances merit consideration of Medicaid eligibility under AD-Care. The HCCDN stated that Petitioner was denied AD-Care due to not being disabled. MDHHS testimony acknowledged that Petitioner was indeed disabled. MDHHS' acknowledgement would be consistent with Petitioner's ongoing receipt of RSDI benefits. Given the evidence, MDHHS improperly determined Petitioner's AD-Care eligibility. To remedy the error, MDHHS will be ordered to redetermine Petitioner's AD-Care eligibility.

MDHHS testified that Petitioner's AD-Care eligibility was processed and ultimately denied due to Petitioner's alleged failure to verify assets. Whether MDHHS has since processed Petitioner's AD-Care eligibility cannot be evaluated in the present decision because the actions occurred after Petitioner's hearing request thereby removing the actions from the hearing jurisdiction of the present case. To dispute the second denial of Medicaid, Petitioner would have to separately request a hearing. It is worth noting that the second denial of Medicaid was due to Petitioner's alleged failure to verify assets. The evidence suggested that MDHHS denied Petitioner by giving "adequate notice". "Adequate notice" is notice of a MDHHS action that becomes effective at the same time that notice is issued. BAM 220 (January 2019) p. 3. If MDHHS properly processed Petitioner's Medicaid eligibility, MDHHS would have to issue "timely notice" which is a notice of actions that are pending for approximately 12 days to allow clients to respond to the pending action. *Id.*, pp. 4-5. To avoid future hearing requests, it is highly recommended, though not ordered, that MDHHS provide Petitioner with timely notice of any Medicaid determinations related to the termination of Petitioner's Medicaid eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's Medicaid eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's Medicaid eligibility effective March 2019 subject to the finding that MDHHS failed to factor Petitioner's disability; and
- (2) Issue a supplement of any benefits improperly not issued, including issuance of proper notice for any actions taken.

The actions taken by MDHHS are **REVERSED**.

CG/cg



Christian Gardocki

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

Via Email:

MDHHS-Kent-Hearings
D. Smith
EQAD
BSC3- Hearing Decisions
MAHS

**Petitioner –
Via First-Class Mail:**

[REDACTED]
[REDACTED]
[REDACTED]

**Authorized Hearing Rep. –
Via First-Class Mail:**

[REDACTED]
[REDACTED]
[REDACTED]