



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 30, 2019
MOAHR Docket No.: 19-002169
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 April 25, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. Also appearing on behalf of Petitioner was Petitioner's wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by Kenika Bradley, Eligibility Specialist. During the hearing, a nine-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-9.

ISSUE

Did the Department properly closed Petitioner's Medicaid (MA) case under the Healthy Michigan Plan (HMP), effective March 1, 2019?

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 full-coverage MA benefits under the HMP.
2. At all times relevant to the instant matter, Petitioner was disabled.
3. Effective January 1, 2018, Petitioner began receiving \$1,510 per month in Retirement, Survivors, and Disability Insurance (RSDI). Effective December 1, 2018, Petitioner began receiving \$1,552 per month in RSDI income.
4. On February 8, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA coverage was ending,

effective March 1, 2019, as a result of Petitioner exceeding the income limit for eligibility under that program. Exhibit A, pp. 6-7.

5. On February 21, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of his MA benefits case.

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, the Department closed Petitioner's MA case under the HMP after concluding that Petitioner's countable earnings exceeding the limit for program eligibility.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (January 2019), p. 1. 133% of the FPL for 2019 is \$16,611.70. See <https://aspe.hhs.gov/poverty-guidelines>.

Petitioner's income in fact exceeded the limit for program eligibility as Petitioner's RSDI income, when annualized, totaled \$18,624. As Petitioner is disabled and had been for quite a while before the Department issued its decision, Petitioner was not even eligible for HMP before the decision was made to remove the coverage due to excess income.

Although Petitioner was not eligible for MA under the HMP, before closing a client's MA benefits case, the Department must conduct an ex parte review to consider the individual's eligibility for other MA categories. BAM 220 (January 2019), pp. 18-20. When the ex parte review shows that the MA recipient is eligible for MA under another category, the Department must change the coverage. BAM 220, p. 18. If the ex parte review shows that the MA recipient may have continuing eligibility under another category but there is not enough information in the case record to determine continued eligibility, the Department must send a verification checklist to proceed with the ex parte

review; if the MA recipient fails to return the requested information or the information returned establishes that the MA recipient is not eligible under any MA category, the Department must send timely notice of MA case closure. BAM 220, pp. 18-19. If during the ex parte review, it is determined that the MA recipient has indicated or demonstrated a disability, the Department must request additional information needed to proceed with a disability determination; pending the determination, the Department must continue the recipient's MA coverage while requesting verifications. BAM 220, p. 19. If the ex parte review shows that there is no potential eligibility under another MA category, the Department must send timely notice of MA case closure. BAM 220, p. 19.

Petitioner indicated a disability, and the Department was aware of Petitioner's disability. Based on the information presented at the hearing, the information the Department had at the time it issued the February 8, 2019, Health Care Coverage Determination Notice was sufficient to at the very least compel the Department to assess Petitioner's eligibility for MA benefits under the disability based MA categories. The Department failed to do that and instead closed Petitioner's case without conducting the required ex parte review. Had it been done, it would have been discovered that the Department was aware of a disability and that Petitioner was probably eligible for MA coverage under a disability-related MA category.

The ex parte review is required prior to closing any MA case. Until the ex parte review is completed, the Department must continue to provide coverage under the type of assistance already provided, which in this case was HMP.

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 Department policy when it closed Petitioner's MA benefits case under the HMP, effective March 1, 2019.

DECISION AND ORDER

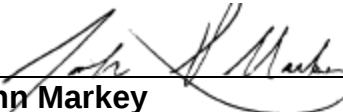
Accordingly, the Department's decision is **REVERSED**.

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 Petitioner's MA benefits case under the HMP, effective March 1, 2019;
2. Continue to provide MA benefits under the HMP until the proper completion of an ex parte review of Petitioner's eligibility for disability-based MA;

3. Notify Petitioner in writing of its decision.

JM/CG


John Markey
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 Office Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS- Oakland-2-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]