



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: June 6, 2019
MOAHR Docket No.: 19-003500
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 June 5, 2019, from Lansing, Michigan. Petitioner was unrepresented. The Department of Health and Human Services (Department) was represented by Karen King, Lead Worker. At approximately 15 minutes into the administrative hearing, Michelle Rajala, Adult Services Worker appeared and testified on behalf of the Department.

ISSUE

Did the Department properly budget Petitioner's MA case?

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 a beneficiary of the MA program administered by the State of Michigan.
2. In July of 2018 the DCH worker discovered that the DHS MA budget was out of compliance in that \$500.00 per month in a home help aide was being deducted as a medical expense when Petitioner was not paying her aide; the State of Michigan was paying the aide.
3. In November of 2018 Respondent conducted a review of Petitioner's case which was due to have been completed in October of 2018. At that time the Respondent

first removed the \$500.00 medical expense from Petitioner's MA budget showing Petitioner no longer eligible for full MA.

4. The Department issued notice to Petitioner that effective October 1, 2018, her MA case switched to a deductible.
5. Petitioner filed a timely hearing request and MOAHR scheduled Petitioner for an administrative hearing. Petitioner waited for her hearing and was sent home by the local office and instructed that she did not have a hearing and was not to come back. MOAHR then sent Petitioner a notice that her hearing request was dismissed due to her failure to appear for the hearing. Petitioner's hearing request was eventually reinstated, and an administrative hearing was scheduled which is the present hearing.

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, unrefuted evidence of record is that for years the ES worker incorrectly budgeted Petitioner's MA budget by allowing for a medical expense that Petitioner did not have as she did not pay that expense. Specifically, the Department paid for Petitioner's home help aide at \$500.00 per month for years while at the same time Petitioner was given a \$500.00 per month medical expense deduction on her MA budget, making her eligible for full MA. Policy found at BEM 137, 163, and 544 does not allow an individual to deduct medical expenses for which they did not pay. The Department stipulated that the failure to correctly budget this expense was due to Department error. Beginning October of 2018 forward, the Department corrected the error resulting in Petitioner's MA having a spend down of \$1004.00, which increased to \$1040 beginning April 1, 2019.

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 calculated that Petitioner had an MA spend down effective October 1, 2018.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

JS/dh



Janice Spodarek
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 of 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 Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Kim Lauterwasser
230 Huron St.
Grayling, MI 49738

Crawford County, DHHS

BSC1 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

Petitioner

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