[redacted]

Date Mailed: August 30, 2019
MOAHR Docket No.: 19-007558
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 August 22, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. Also appearing on behalf of Petitioner was [redacted] The Department of Health and Human Services (Department) was represented by Lisa Holbrook, Family Independence Manager. During the hearing, a 26-page packet of documents was offered and admitted as Exhibit A, pp. 1-26.

ISSUE

Did the Department properly determine that Petitioner was ineligible for Medicaid (MA) under the Health Michigan Program (HMP), effective August 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. On [redacted], 2019, Petitioner submitted to the Department an application for MA benefits for himself. Petitioner indicated on the application that he lived with his wife, who had approximately $30,000 per year in income from her employment. Petitioner further indicated that he was disabled. Exhibit A, pp. 8-23.

2. Petitioner was initially approved for MA coverage under the HMP. The approval was done without the Department budgeting Petitioner's wife's income.

3. On July 10, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA benefits case was going to close, effective August 1, 2019, as a result of the Department's determination that Petitioner's household income exceeded the limit for program eligibility. Exhibit A, pp. 4-7.

4. On [redacted] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

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 submitted to the Department an application for MA benefits for himself on [redacted], 2019. On the application, Petitioner accurately informed the Department that his household included himself and his wife and that his wife had annual income of about $30,000. Further, Petitioner asserted that he was disabled. When the Department processed Petitioner's application, the Department neglected to take into consideration Petitioner's assertion of having a disability or to budget Petitioner's wife's income into the equation when determining the MA benefits Petitioner may be eligible for. As a result, Petitioner was found eligible for MA benefits under the HMP. Once the Department budgeted all household income into the equation, Petitioner was found ineligible for MA benefits and issued a July 10, 2019 Health Care Coverage Determination Notice closing Petitioner's MA benefits case, effective August 1, 2019. Petitioner timely requested a hearing objecting to the Department's closure of his MA case and failure to take action with respect to his assertion that he was disabled.

Before closing any type of MA case, the Department must conduct an *ex parte* review to determine whether the client may be eligible under another category. BAM 220 (January 2019), pp. 18-19. When the review shows that the client may be eligible under another MA category, the Department must either change the coverage to that category or attempt to clarify any questions regarding eligibility by sending out verification checklist(s) to gather the missing eligibility-related information. BAM 220, pp. 18-19. The Department may only issue a notice closing the MA case after the *ex parte* review reveals that there is no potential eligibility under another MA category. BAM 220, p. 19.

When the Department issued the notice closing Petitioner's MA benefits cases, it had failed to appropriately analyze Petitioner's eligibility under other categories. According to a brief review of Petitioner's information, it appears that Petitioner may be eligible for coverage under SSI-related MA programs. Upon receiving Petitioner's application for MA coverage, the Department should have initiated the process to determine disability. However, the Department did nothing to address Petitioner's repeated and consistent assertion that he was disabled.

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 Petitioner's MA case, effective August 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. Redetermine Petitioner's eligibility for MA benefits, effective August 1, 2019, ongoing, which involves analyzing Petitioner's eligibility under all MA categories;

2. If there are any eligibility-related factors that remain unclear, inconsistent, contradictory, or incomplete, including those involving Petitioner's disability claim, request verifications pursuant to Department policy;

3. It Petitioner is eligible for additional benefits that he did not receive, promptly issue a supplement; and

4. Notify Petitioner in writing of its decisions and ensure that timely notice is provided as required by policy.

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

Via Email:

MDHHS-Alger-Hearings
D. Smith
EQAD
BSC1- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[redacted]