



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: December 12, 2019
MOAHR Docket No.: 19-011672
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 December 9, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Tracie Old, Eligibility Specialist. During the hearing, an 11-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-11.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) benefits, effective November 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 MA benefits from the Department under the Freedom to Work (FTW) category. His case was certified through the end of September 2019.
2. In [REDACTED] 2019, the Department issued to Petitioner a Redetermination form to gather relevant information regarding Petitioner's ongoing eligibility. Petitioner completed the Redetermination prior to the end of September 2019.
3. On [REDACTED] 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA case was closing,

effective [REDACTED] 2019, as a result of Petitioner's alleged failure to return to the completed Redetermination. Exhibit A, pp. 1-3.

4. On [REDACTED] 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that he was approved for full-coverage MA under the FTW category from [REDACTED] 2019 through [REDACTED] 2019. Effective [REDACTED], 2019, Petitioner was eligible for MA coverage subject to a \$[REDACTED] monthly deductible. Exhibit A, pp. 10-11.
5. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions.
6. At the hearing, the Department witness, Ms. Old, conceded that the Department erred in determining Petitioner's eligibility for MA benefits. Ms. Old further testified that a Health Care Coverage Determination Notice was issued the date of the hearing in this matter, [REDACTED], 2019, stating that Petitioner was eligible for MA under the FTW category back to [REDACTED], 2019. However, Ms. Old could not provide that document to either Petitioner or the undersigned ALJ.

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 objected to the Department's downgrading of his MA benefits from FTW to a deductible plan, effective [REDACTED] 2019. During the hearing, the Department witness, Ms. Old, conceded that the change was made in error and that the Department was working on getting it fixed but had not completed that task by the time of the hearing. However, Ms. Old did testify that a Health Care Coverage Determination Notice was being issued on the date of the hearing granting Petitioner his preferred FTW category MA all the way back to [REDACTED] 2019.

As a disabled individual with earned income, Petitioner was eligible for benefits under the FTW MA program. FTW is an SSI-related full-coverage MA program. BEM 174 (January 2017), p. 1. Initial income eligibility exists when the client's countable income

does not exceed 250 percent of the Federal Poverty Level (FPL). BEM 174, p. 3. Ongoing eligibility exists when the client's unearned income does not exceed 250 percent of the FPL. BEM 174, p. 3. The Department determines countable earned and unearned income according to SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530. BEM 174, p. 3. The Department determines income deductions using BEM 540 (for children) or 541 (for adults). BEM 174. Unemployment compensation benefits are not countable income for FTW. BEM 174, p. 3.

Petitioner was not married, and per policy, his fiscal group size for SSI-related MA benefits is one. BEM 211 (February 2019), p. 8. 250% of the annual FPL in 2019 for a household with one member is \$31,225. See <https://aspe.hhs.gov/poverty-guidelines>. As Petitioner's income was below that amount, Petitioner was eligible for FTW coverage.

Because Petitioner was eligible for MA under the FTW category for the entire relevant time period, the Department's transition of Petitioner to a less favorable MA category, effective [REDACTED] 2019, is reversed. 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 determined Petitioner's eligibility for MA benefits, effective [REDACTED] 2019, ongoing.

DECISION AND ORDER

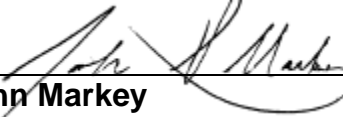
Accordingly, the Department's decision is **REVERSED**.

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 under the FTW category back to [REDACTED], 2019;
2. If Petitioner is eligible for additional benefits that were not provided or had to pay out of pocket for medical services that should have been covered, ensure that a supplement is promptly issued or Petitioner is otherwise reimbursed; and

3. Notify Petitioner in writing of its decisions.

JM/tm



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

DHHS

Denise Croff
301 E. Louis Glick Hwy.
Jackson, MI
49201

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc: ME—D. Smith; EQADHShearings
AP Specialist-Jackson County (4)