



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: February 13, 2020
MOAHR Docket No.: 19-012344
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

DECISION AND ORDER

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 *et seq*; 42 CFR 438.400 *et seq*; and Mich Admin Code, R 792.11002.

After due notice, a hearing was held on January 16, 2020. [REDACTED] son and Authorized Hearing Representative (AHR) represented the Petitioner and provided interpretation during the hearing. [REDACTED] the Petitioner, was present. Emily Piggott, Appeals Review Officer, represented the Department of Health and Human Services (Department). Cara Dearmon, Adult Services Worker (ASW), and Linda Stabel, ASW, appeared as witnesses for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-20.

ISSUE

Did the Department properly terminate Petitioner's Home Help Services (HHS) case?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Petitioner's HHS case opened February 28, 2019. (Exhibit A, p. 6)
2. Petitioner's Medicaid status changed from a scope of coverage of 1F to 2H effective September 1, 2019. (Exhibit A, p. 8)

3. On September 19, 2019, the Department issued an Advance Negative Action Notice to Petitioner stating HHS will be suspended effective October 3, 2019, because payments cannot be made to the HHS provider without active Medicaid. It was indicated that Petitioner should address the Medicaid termination to continue receiving HHS and avoid suspension/termination of her case. (Exhibit A, p. 9)
4. On October 15, 2019, the Department issued an Advance Negative Action Notice to Petitioner stating HHS will be terminated effective October 29, 2019, because her Medicaid benefit scope of coverage no longer covers HHS and payments cannot be made to the HHS provider without active Medicaid. It was indicated that Petitioner should address the Medicaid termination with her assistance worker. (Exhibit A, p. 10)
5. The Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's hearing request on November 27, 2019. (Exhibit A, pp. 4-5)

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services (HHS) are provided to enable functionally limited individuals to live independently and receive care in the least restrictive, preferred settings. These activities must be certified by a health professional and may be provided by individuals or by private or public agencies.

The Adult Services Manual (ASM) addresses eligibility for Home Help Services:

Requirements

Home help eligibility requirements include **all** of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment indicating a functional limitation of level 3 or greater for at least one activity of daily living (ADL).
- Appropriate Program Enrollment Type (PET) codes.

Medicaid/ Medical Aid (MA)

The client may be eligible for MA under one of the following:

- All requirements for Medicaid have been met.
- MA deductible obligation has been met.

The client must have a scope of coverage of either:

- 1F or 2F.
- 1D or 1K (Freedom to Work).
- 1T (Healthy Kids Expansion).
- 3G (Healthy Michigan Plan).
- 7W (MiChild).
- 8L (Flint).

Clients with a scope of coverage 20, 2C or 2B are **not** eligible for Medicaid until they have met their MA deductible obligation.

Note: A change in the scope of coverage in Bridges will generate a system tickler in Michigan Adult Integrated Management System (MiAIMS) for active services cases.

*Adult Services Manual (ASM) 105,
January 1, 2018, pp. 1-2 of 4
(Underline added by ALJ)*

As discussed during the telephone hearing proceeding, there is no jurisdiction for this Administrative Law Judge to review the Medicaid eligibility determination as part of this HHS appeal. Petitioner's hearing request was forwarded for processing for a separate hearing to address the Medicaid eligibility determination.

Petitioner's HHS case opened February 28, 2019. (Exhibit A, p. 6) Petitioner had active Medicaid with a scope of coverage of 1F at that time. (Exhibit A, p. 8)

However, Petitioner's Medicaid status changed from a scope of coverage of 1F to 2H effective September 1, 2019. (Exhibit A, p. 8) Accordingly, Petitioner no longer had an allowable scope of coverage code for the HHS program pursuant to the above ASM 105 policy.

The above cited ASM 105 policy, which was in effect at the time of the September 19, 2019, and October 15, 2019, determinations, does not address a scope of coverage code of "2H." However, it appears that a scope of coverage code of "2H", with no deductible/spend-down amount shown, indicates an inactive, or non-full coverage, Medicaid eligibility status. (Exhibit A, p. 16) This is also consistent with the

Medicaid Provider Manual (MPM), Beneficiary Eligibility Chapter, Section 2.4 Scope/Coverage Codes, which indicates a scope/coverage of “1F” reflects full Medicaid coverage and a scope/coverage code of “2H” reflects Additional Low Income Medicare Beneficiary (ALMB), i.e. Medicaid pays the Medicare Part B premium. *MPM, Beneficiary Eligibility Chapter, July 1, 2019, pp. 22-23.* Pursuant to the overall ASM 105 policy, clients without an active, full coverage Medicaid eligibility status are not eligible for HHS, a Medicaid service.

The information available to the ASW at the time of the HHS suspension and subsequent termination determinations indicated Petitioner no longer had an allowable scope of coverage code for the HHS program pursuant to the ASM 105 policy. Accordingly, the Petitioner was no longer eligible for HHS because she did not have a qualifying Medicaid eligibility status. Therefore, the determination to suspend, then terminate Petitioner’s HHS case must be upheld.

Lastly, it appears that HHS payments stopped prior to the effective dates on the HHS case action notices. The effective dates for the HHS suspension and termination, as listed on the Advance Negative Action Notices, were October 3, 2019, and October 29, 2019. (Exhibit A, pp. 5 and 9-10) The documentation indicates the last HHS payment warrant was issued for services provided in August 2019, and no HHS payment was issued for any services provided after August 31, 2019. (Exhibit A, pp. 14-16) Therefore, it appears that the effective dates for the HHS suspension and termination were after the HHS payments for Petitioner’s case had already stopped. While the evidence is consistent with no HHS payments being issued for services that may have been performed from September 1, 2019, through the effective dates, there is no remedy that can be ordered for the lack of advance notice. This ALJ cannot order the Department to pay for a Medicaid covered service, HHS, during a time period that Petitioner did not have active Medicaid coverage.

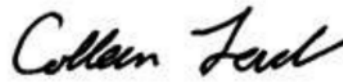
Petitioner may wish to re-apply for HHS if there are changes in her circumstances, such as a change in her Medicaid eligibility status.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly terminated Petitioner's HHS case based on the available information.

IT IS, THEREFORE, ORDERED that:

The Department's decision is **AFFIRMED**.



CL/dh

Colleen Lack
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 30763
Lansing, Michigan 48909-8139

DHHS -Dept Contact

Michelle Martin
Capitol Commons
6th Floor
Lansing, MI 48909

DHHS

Amber Gibson
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PO Box 30088
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DHHS Department Rep.

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Petitioner

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Authorized Hearing Rep.

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