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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: May 21, 2020
MOAHR Docket No.: 20-000546
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 3-way telephone hearing was held on May 13, 2020, from Trenton, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's wife, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Melissa Stanley, hearings facilitator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of January 2019, Petitioner was an ongoing recipient of Supplemental Security Income (SSI) through the Social Security Administration (SSA). Also, Petitioner received Medicaid from MDHHS.
2. On an unspecified date, Petitioner reported to SSA that he is married.
3. On an unspecified date, SSA terminated Petitioner's SSI eligibility.
4. On November 21, 2019, MDHHS mailed Petitioner a Medicaid application as part of an ex-parte review.

5. On December 4, 2019, MDHHS mailed Petitioner notice that his Medicaid benefits would end beginning January 2020 due to failing to return the Medicaid application.
6. On [REDACTED] 2019, Petitioner submitted a Medicaid application to MDHHS
7. On January 16, 2020, MDHHS denied Petitioner's application due to an alleged failure by Petitioner to return a Health Care Supplemental Questionnaire.
8. On January 16, 2020, Petitioner requested a hearing to dispute Medicaid eligibility.
9. On January 27, 2020, MDHHS approved Petitioner for Medicaid subject to a deductible.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing on January 16, 2020, to dispute "Health Care". Exhibit A, pp. 2-3. Petitioner provided no additional explanation of his dispute. At the time of Petitioner's hearing request, MDHHS had taken two recent adverse actions to Petitioner's Medicaid. Each adverse action occurred during an ex parte review undertaken following Petitioner's loss of SSI benefits.

For persons who lose SSI eligibility, a redetermination/ex parte review is required before Medicaid closures unless the basis for SSI termination would result in closure due to ineligibility for all Medicaid. BEM 150 (April 2017), p. 7. When possible, a redetermination/ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. *Id.* The review includes consideration of all MA categories. *Id.* A redetermination date should be set for the second month after transfer to allow for an ex parte review. BEM 150 (April 2017), pp. 6-7. In Medicaid closures related to SSI termination, the specialist will receive a reminder giving 15 days for the specialist to mail a redetermination/ex parte packet to the client. The redetermination/ex parte packet should include the DCH-1426 Application for Health Coverage & Help Paying Cost and the Word version of the DHS-3503 Verification Checklist. The specialist should mark the verifications required for Medicaid on the DHS-3503. The specialist is to complete the redetermination/ex parte review during the second month of SSIT eligibility. *Id.*, p. 7.

The first adverse action occurred on December 4, 2019, when MDHHS terminated Petitioner's Medicaid beginning January 2020 after Petitioner allegedly failed to return an application as part of an ex parte review. An ex-parte review was needed to evaluate Petitioner for all Medicaid categories because Petitioner was no longer eligible for Medicaid as an SSI recipient after SSA terminated his SSI benefits. The result of the ex-parte review was a termination of Petitioner's Medicaid eligibility beginning January 2020.

The second adverse action happened after MDHHS eventually received an application requesting Medicaid from Petitioner on [REDACTED] 2019. MDHHS initially denied Petitioner's application on January 16, 2020 but processed it on January 27, 2020. The result of processing was that Petitioner for Medicaid beginning January 2020, subject to a large deductible.

A potential administrative hearing remedy for an improper Medicaid closure would be a reprocessing of Medicaid. A potential remedy for an improperly denied application is for MDHHS to process the application. Either remedy would result in an order that MDHHS process Petitioner's Medicaid application to determine his eligibility for January 2020. MDHHS did process Petitioner's Medicaid eligibility for January 2020 and approved him; granted, Petitioner's Medicaid eligibility is now subject to a deductible, as opposed to the full Medicaid that he previously received. There is no hearing jurisdiction to address whether a deductible is proper because the deductible was imposed after Petitioner requested a hearing. If Petitioner wishes to disputes receipt of Medicaid subject to a deductible, he may now request a hearing.

During the hearing, Petitioner also expressed a dispute over a lack of Medicare coverage. Petitioner must forward this dispute to SSA because that is the agency charged with administering Medicare. There is no administrative hearing jurisdiction in a hearing with MDHHS to address a dispute over Medicare coverage.

Given the evidence, there is no administrative remedy available to Petitioner for his Medicaid disputes. Accordingly, Petitioner's hearing request is properly dismissed.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that there is not administrative hearing remedy available to Petitioner for his hearing request dated January 16, 2020. Petitioner's hearing request is **DISMISSED**.

CG/cg



Christian Gardocki

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-Wayne-49-Hearings
MDHHS-Saginaw-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

