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GOVERNOR

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

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DIRECTOR

[REDACTED]
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[REDACTED]

Date Mailed: March 25, 2020
MOAHR Docket No.: 20-001075
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 scheduled for March 11, 2020, from Detroit, Michigan. The hearing was held on the scheduled hearing date and at least 30 minutes after the scheduled hearing time. Petitioner's former spouse, [REDACTED], testified and participated as Petitioner's authorized hearing representative (AHR)¹. The Michigan Department of Health and Human Services (MDHHS) did not participate in the hearing.

ISSUE

The issue is whether MDHHS properly terminated AHR's Medicaid and Medicare Savings Program (MSP) benefits.

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 December 2019, AHR was an ongoing recipient of Medicaid and MSP benefits.
2. On December 4, 2019, MDHHS mailed Petitioner a Redetermination form concerning redetermining AHR's Medicaid and MSP benefits.

¹ AHR essentially requested a hearing to dispute an action taken to his benefit eligibility. Though AHR and Petitioner are not married, they do share a household, and MDHHS issues AHR's benefits under a case bearing the name of his former spouse.

3. On December 20, 2019, a Redetermination form concerning AHR's case was faxed to MDHHS.
4. On January 17, 2019, MDHHS initiated termination of AHR's Medicaid and MSP eligibility beginning February 2020 due to Petitioner allegedly failing to return a Redetermination form.
5. On [REDACTED], 2020, Petitioner requested a hearing to dispute the termination of Medicaid and MSP.

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 to dispute a termination of MA and MSP benefits for AHR. Exhibit A, pp. 3-4. Both Medicaid and MSP fall under the MA program (see BEM 165). A Health Care Coverage Determination Notice dated January 17, 2020, stated that AHR's Medicaid and MSP eligibility would be terminated beginning February 2020 due to a Redetermination form not being returned. Exhibit A, p. 5.

For all programs, MDHHS must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes a thorough review of all eligibility factors.² BAM 210 (October 2019), p. 1. For all programs, Bridges (the MDHHS database) mails a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. A redetermination/review packet is considered complete when all of the sections of the Redetermination form, including the signature section, are completed. *Id.* p. 11. MA benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. *Id.*, p. 4.

It was not disputed that AHR was a recipient of Medicaid and MSP benefits, with a benefit period certified through January 2020. It was also not disputed that MDHHS sent Petitioner a Redetermination form on December 4, 2020, for the purpose of redetermining AHR's Medicaid and MSP benefits. AHR's only dispute concerned the return of the Redetermination form.

² For Medicaid, an annual review of all eligibility programs is called a "renewal". For all other programs, the process is a "redetermination". BAM 210 (October 2019) p. 1.

AHR testified that the Redetermination form was faxed and mailed to MDHHS on December 20, 2019. AHR corroborated his testimony with a fax confirmation. Exhibit A, p. 6. MDHHS did not participate in the hearing to rebut any of the evidence from AHR.

Given the evidence, MDHHS received AHR's Redetermination form on December 20, 2019. Thus, the subsequent termination of Medicaid and MSP benefits was improper. Under the circumstances, AHR is entitled to a processing of his Medicaid and MSP Redetermination form, subject to a December 20, 2019 submission date.

MDHHS' hearing packet suggested that it may have corrected the improper closure of AHR's Medicaid and MSP benefits. A Health Care Coverage Determination Notice dated February 3, 2020, stated that AHR was approved for Medicaid and MSP beginning February 2020. AHR testified that he called his specialist for confirmation that his benefits were reinstated, but that his calls go unanswered; thus, AHR questioned the reliability of the notice. Also, AHR testified that his Social Security Administration benefits for February and March 2020 were reduced for payment of a Medicare premium; such a reduction is consistent with not being eligible for MSP benefits.³

Given the evidence, it is possible that MDHHS corrected the improper closure of AHR's Medicaid and MSP, however, MDHHS did not participate in the hearing to verify its correction. Thus, MDHHS will be ordered to correct the improper closure. If MDHHS has already done so, it should be relatively easy for MDHHS to comply with the below order.

³ It takes SSA about 120 days after MSP case opening to adjust the client's RSDI check. BAM 810 (July 2019) p. 8. If MDHHS reinstated AHR's MSP benefits, it may take several weeks, however, AHR should eventually receive a refund for Medicare premiums paid while SSA processes the approval of MSP benefits. During the hearing, this process was advised to AHR.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated AHR's Medicaid and MSP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate AHR's Medicaid and MSP benefits beginning February 2020, subject to the finding that MDHHS received Petitioner's Redetermination form on December 20, 2019; and
- (2) Issue a supplement for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/cg



Christian Gardocki

Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

