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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: October 7, 2020
MOAHR Docket No.: 20-005404
Agency No.: 102525086
Petitioner: Elaine Piner

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 hearing was held on September 30, 2020, via telephone conference line. Petitioner did not participate. Petitioner was represented by an authorized hearing representative: ██████████ ██████████ Petitioner's sister and guardian. The Michigan Department of Health and Human Services (MDHHS) was represented by Crystal Thomas, specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (MSP) 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 April 2020, Petitioner was an ongoing recipient of MSP under the sub-program Additional Low Income Beneficiaries (ALMB). Petitioner was also a recipient of Medicaid under the Group 2- Spenddown (G2S) category.
2. On ██████████ ██████████ 2020, Petitioner was hospitalized.
3. On ██████████ ██████████ 2020, Petitioner was transferred from a hospital to a nursing home.
4. On an unspecified date, MDHHS approved Petitioner for full Medicaid under the category of Extended Care.
5. On ██████████ ██████████ 2020, Petitioner was discharged from the nursing home.

6. On June 24, 2020, MDHHS terminated Petitioner's MSP eligibility from May 2020 through July 2020.
7. On August 11, 2020, Petitioner's AHR requested a hearing to dispute the termination of Petitioner's MSP eligibility.

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. MDHHS 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's AHR requested a hearing to dispute a termination of Petitioner's MSP eligibility. Exhibit A, pp. 4-6. A Health Care Coverage Determination Notice dated June 24, 2020, stated that Petitioner was ineligible for MSP from May 2020 through July 2020 because "she had full Medicaid coverage." Exhibit A, pp. 14-17. Before a finding of whether MDHHS acted properly, some background of Medicaid and MSP is apt.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.* Persons eligible for Group 1 categories receive full Medicaid. Persons not eligible for Group 1 categories may be eligible for Medicaid subject to a monthly deductible under a Group 2 category.

One of three different types of subprogram are available under MSP. BEM 165 (January 2018) p. 1. Qualified Medicare Beneficiaries coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), p. 2. Specified Low Income Beneficiaries coverage pays for a client's Medicare Part B premium. *Id.* ALMB coverage pays for a client's Medicare Part B premium if MDHHS funding is

available. *Id.* The client's income determines the MSP subprogram issued (see RFT 242).

A termination of Petitioner's MSP benefits due to full Medicaid coverage is curious because there is no general prohibition against a client receiving full Medicaid and MSP. MDHHS testimony explained that Petitioner's specific circumstances justified MSP ineligibility.

Petitioner was hospitalized in █████ 2020. At the time, Petitioner was eligible for Medicaid subject to a monthly deductible under a Group 2 Medicaid category. Petitioner also received MSP benefits under ALMB. In May 2020, Petitioner was transferred to a nursing home. Petitioner's move to a nursing home prompted MDHHS to approving Petitioner for full Medicaid under the Group 1 Medicaid category of Extended Care and ending Petitioner's MSP eligibility under ALMB.

A person is not eligible for ALMB if the person is eligible for and receiving MA under another category. BEM 165 (January 2018) p. 6. However, for deductible clients, persons who change to a nursing home status are not eligible for ALMB. *Id.*

Petitioner's transfer to a nursing home justified the termination of her ongoing ALMB eligibility. Petitioner's loss of ALMB while in a nursing home should be more than offset by her upgrade to full Medicaid coverage from a monthly deductible. Presumably, MDHHS only terminated Petitioner's ALMB eligibility from May 2020 through July 2020 to correspond with her full Medicaid eligibility during the same time. Given the evidence, MDHHS properly terminated Petitioner's MSP eligibility from May 2020 through July 2020.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's MSP eligibility from May 2020 through July 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



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-Macomb-20-Hearings
OIG Hearings
LBengel
Policy Recoupment
MOAHR

**Via First-Class Mail:
Respondent –**

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Authorized Hearing Representative -

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