



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 6, 2018
MAHS Docket No.: 18-006004
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's June 7, 2018, request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 2, 2018, from Lansing, Michigan. [REDACTED] ([REDACTED] spouse) appeared on behalf of the Petitioner. Krista Hainey, Family Independence Manager, appeared on behalf of the Department.

One exhibit was admitted into evidence after the hearing. A 30-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly deny [REDACTED] medical coverage effective July 1, 2018?

FINDINGS OF FACT

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

1. [REDACTED] is the spouse of [REDACTED]
2. In May 2018, the Department discovered that it had made an error in determining [REDACTED] eligibility for Medicaid. The Department had been budgeting her past medical expenses as ongoing medical expenses and thereby erroneously satisfying her spend down. The Department corrected its budget and determined that Petitioner had a \$843 spend down which she had to meet to be eligible for benefits.

3. On June 1, 2018, the Department issued a Health Care Coverage Determination Notice to [REDACTED]. The Notice advised that [REDACTED] and [REDACTED] were approved for full coverage under the Medicare Savings Program. The Notice also advised that [REDACTED] was not eligible because, “you are not under 21, pregnant, or a caretaker of a minor child in your home. You are not over 65 (aged), blind, or disabled.” Exhibit A, p. 27-28.
4. On [REDACTED] [REDACTED] filed a hearing request to dispute the Notice because she is over 65, contrary to what the Notice stated.

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.

Here, the Department sent a June 1, 2018, Determination to Petitioner which found [REDACTED] ineligible and failed to state the reason(s) why. The Department’s June 1, 2018, Determination stated that Petitioner was not eligible because “you are not under 21, pregnant, or a caretaker of a minor child in your home. You are not over 65 (aged), blind, or disabled.” [REDACTED] was in fact over 65 at the time of the Determination, so she filed a hearing request to dispute the Determination. The Department appeared at the hearing and testified that the reason it stated in its Determination was not the actual reason for its Determination. The Department testified that it issued its Determination because [REDACTED] had not met her \$843 spend down to be eligible for coverage.

A notice must state the reason(s) for the action. BAM 220 (July 1, 2018), p. 2. A notice must be in plain language and must state the action the Department is taking with a clear and specific statement of the reason(s) for the action. 7 CFR 431.210 and 7 CFR 435.917. Nowhere in the June 1, 2018, Determination did it state anything that would have led a reasonable person to conclude that the Department denied coverage for failure to meet a spend down. Thus, the Determination was defective because it did not contain a clear and specific statement of the reason(s) for the action.

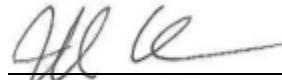
For these reasons, I must find that the Department’s June 1, 2018, Determination was issued in violation of the Department’s policies and the applicable law. Therefore, it must be reversed.

DECISION AND ORDER

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 its policies and the applicable law when it issued its June 1, 2018, Health Care Coverage Determination.

IT IS ORDERED the Department's June 1, 2018, Determination is **REVERSED**.

JK/nr



Jeffrey Kemm
Administrative Law Judge
for Nick Lyon, 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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Cindy Tomczak
401 Eighth Street
PO Box 1407
Benton Harbor, MI
49023

Berrien County DHHS- via electronic mail

BSC3- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED] MI