



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: February 13, 2019
MAHS Docket No.: 18-013223
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 telephone hearing was held on February 11, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Angelique Wimbush, Assistance Payments Supervisor, and Valarie Foley, Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's child's Medicaid (MA) benefits case under the MICHild program?

FINDINGS OF FACT

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

1. Petitioner's child was an ongoing MA beneficiary under the MICHild program.
2. On October 5, 2018, MICHild sent to Petitioner a notice informing her that she was required to pay \$30 to MICHild to cover three months of premiums at \$10 per month. The notice indicated that the payment was due by November 10, 2018.
3. Within two days of receiving the notice, Petitioner sent a copy of the notice along with a check for \$40 to the address listed on the notice.

4. On October 16, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her child's MA benefits were being cancelled as of November 1, 2018 for allegedly failing to pay the premium.
5. On November 8, 2018, Petitioner's account with MICHild was credited \$40. However, despite paying the premium before it was due and even including an extra month for good measure, Petitioner's child's MICHild coverage lapsed as of November 1, 2018.
6. At some point, Petitioner was able to obtain full coverage for her child from the Department under another program, effective December 1, 2018.
7. On December 11, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her child's MA benefits case for the month of November 2018.

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.

In this case, Petitioner's child was an ongoing MA recipient under the MICHild program subject to a monthly premium of \$10. MICHild is a MAGI-related Medicaid Expansion program for children who are under 19 years of age and who have no other health coverage. BEM 130 (July 2016), p. 1. Families pay a monthly premium for MICHild coverage. BEM 130, p. 1. The premium amount is \$10.00 per family per month regardless of the number of children in the family. BEM 130, p. 1. Failure to pay the premium on time may result in termination of MICHild. BEM 130, p. 1. Department specialists are not responsible for the collection of premium payments. BEM 130, p. 2. The Department will be notified if there is a negative action entered into the system for non-payment of premiums. BEM 130, p. 2.

Petitioner credibly testified that she timely paid her premium for November 2018 after being notified of the requirement. Likewise, the Department representative at the hearing confirmed that Petitioner received a letter from MICHild directing her to pay the premium by November 10, 2018, and that MICHild shows receipt of the payment before

November 10, 2018. The Department presented no evidence, such as the notices of overdue premiums, to support its assertion that Petitioner did not timely pay her monthly premiums. It is insufficient for the Department to merely state that Petitioner failed to timely pay her monthly premiums. The Department must present evidence to support its assertion, so it can be independently verified that policy was followed. In the absence of such evidence, the Department failed to establish that it properly followed policy when it closed Petitioner's child's MA benefit case.

DECISION AND ORDER

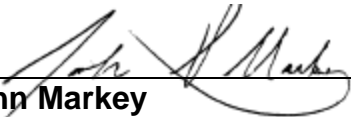
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's child's MA benefit case.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's child's MA benefits case under the MIChild program, effective November 1, 2018;
2. Provide Petitioner's child with MA benefits the child is entitled to receive as of November 1, 2018, ongoing; and
3. Notify Petitioner of its decision in writing.

JM/cg



John Markey
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 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

Via Email:

MDHHS-Wayne-18-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]