



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 28, 2019
MAHS Docket No.: 18-013716
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 13, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearings Facilitator. During the hearing, a 19-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-19.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) benefits, effective October 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. Petitioner was an ongoing recipient of MA benefits under the Healthy Michigan Plan (HMP) from sometime in 2016, at the latest, through September 30, 2018.
2. On [REDACTED] 2018, Petitioner submitted to the Department an application for Family Independence Program (FIP) and Food Assistance Program (FAP) benefits. Exhibit A, pp. 7-12.
3. The application submitted by Petitioner included the following question: "Does anyone in your household have a disability or a physical/mental/emotional health

condition?" Petitioner answered "Yes." When asked who in the household had a disability or a physical/mental/emotional health condition, Petitioner wrote "[redacted] [sic] [redacted]" Exhibit A, p. 9.

4. In response to Petitioner's application, the Department issued to Petitioner an August 22, 2018 Verification Checklist (VCL) requesting Petitioner to verify certain eligibility related factors with respect to FIP, FAP, and MA. One of the requested verifications related to disability. Acceptable verifying documents were listed on the VCL. Responses were due by September 4, 2018. Exhibit A, pp. 17-19.
5. Petitioner did not return any of the requested documentation.
6. On September 19, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was not eligible for MA benefits from the Department, effective October 1, 2018. Exhibit A, pp. 4-5.
7. On [redacted] 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her MA benefits case, effective October 1, 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 objects to the Department's closure of her MA benefits case, effective October 1, 2018. Petitioner had been receiving MA coverage from the Department under the HMP for years. On August 18, 2018, Petitioner submitted to the Department an application for FIP and FAP benefits. On the application, Petitioner indicated that she had "a disability or a physical/mental/emotional health condition." However, Petitioner also indicated that she had no intention of applying for disability benefits nor was she receiving any medical assistance based on a disability. Shortly thereafter, the Department issued to Petitioner a VCL requesting information related to a disability. Petitioner did not return any of the requested documentation, which in all likelihood did not exist as Petitioner was not disabled and never sought a determination of disability at any point in time.

On September 19, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA case was closing, effective October 1, 2018. The stated reasons for the closure were that Petitioner was not under 21, pregnant, or a caretaker of a minor child in her home and that Petitioner was not over 65 (aged), blind, or disabled. The Department considered Petitioner to have \$0 in annual income in determining her eligibility for MA benefits.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, including AD-Care, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for HMP coverage. BEM 105 (April 2017), p. 1-4.

AD-Care is an SSI-related MA program that is available to individuals who are aged or disabled. BEM 163 (July 2017), p. 1. Generally, if an individual is receiving RSDI or SSI, they are considered disabled. BEM 163, p. 1. Additionally, if the individual is not receiving either of those, the Department sends the individual to the Disability Determination Services (DDS), which then makes a determination as to the individual's disability status. BEM 260 (July 2015), p. 3. If DDS does not certify the individual as disabled, then the disability factor for AD-Care is not met. BEM 260, p. 13.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (April 2018), p. 1.

During the hearing, the Department explained that Petitioner's answer on the application that she had "a disability or a physical/mental/emotional health condition" triggered the Department to analyze Petitioner's eligibility for MA benefits under AD-Care. When Petitioner failed to provide proof that she was disabled, the Department closed her MA case, effective October 1, 2018, which had been exclusively under the HMP for years.

The Department's actions were not in compliance with Department policy and must be reversed. First, Petitioner never informed the Department that she was disabled. Rather, she informed the Department that she had "a disability or a physical/mental/emotional health condition." The Department did not send Petitioner to DDS for a disability determination. Instead, it simply concluded that Petitioner was not disabled because she failed to provide documentation of the non-existent disability in response to the VCL. Once it concluded that Petitioner was not disabled, it sent out a Health Care Coverage Determination Notice that informed Petitioner that her MA case was being closed, effective October 1, 2018. On the Notice, the Department stated that Petitioner's income was below 133% of the poverty limit and that Petitioner was not disabled, 21 years of age or older and not yet 65 years of age. The facts as stated on the Notice are sufficient to establish eligibility for the HMP program that Petitioner was

on for years up until the closure of her case. Rather than closing the case, the Department should have simply continued Petitioner's coverage under the HMP when it determined that Petitioner was not disabled.

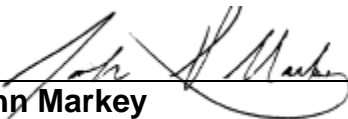
DECISION AND ORDER

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 Department policy when it closed Petitioner's MA benefits case under the HMP, effective October 1, 2018. 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 MA benefits case and provide MA coverage under the most beneficial category given the Department's conclusion that Petitioner is not disabled, effective October 1, 2018, ongoing; and
2. Notify Petitioner in writing of its decision.

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-17-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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