



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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Date Mailed: March 11, 2019
MAHS Docket No.: 19-000529
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 March 8, 2019, from Detroit, Michigan. Petitioner was not present and was represented by her Authorized Hearing Representative (AHR), Family Option Services. [REDACTED] was present on behalf of Family Option Services. The Department of Health and Human Services (Department) was represented by Mus Gooden, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) benefit case?

Did the Department properly process Petitioner's application for MA 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. Petitioner was an ongoing MA Supplemental Security Income (SSI) recipient.
2. In May 2018, Petitioner's SSI benefits were terminated.
3. On October 19, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that her MA benefit case was closing (Exhibit B).

4. On October 29, 2018, Petitioner's AHR submitted a new application for MA benefits on behalf of Petitioner.
5. On January 11, 2019, Petitioner's AHR submitted a request for hearing.

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 was an ongoing MA SSI recipient. In May 2018, Petitioner's SSI benefits were terminated. The Department administers MA for SSI recipients, including a continued MA eligibility determination when SSI benefits end. BEM 150 (April 2017), p. 1. SSI recipients who are Michigan residents receive MA-SSI coverage for the duration of SSI eligibility. BEM 150, p. 6. When SSI benefits stop, the Department evaluates the reason based on the SSA's negative action code, then either closes the MA-SSI case if SSI stopped for a reason that prevents continued MA eligibility (such as death or lack of Michigan residency) or transfers the client's MA case to SSIT type of assistance until a redetermination is completed to allow for an ex parte review of the client's eligibility for other MA categories. BEM 150, p. 6.

During the ex parte review, the Department must consider the client's eligibility for coverage under all MA categories. BEM 150, p. 7. The Department must send the client and her authorized representative a redetermination packet that includes the DCH-1426, Application for Health Coverage & Help Paying Cost, and the word version of the DHS-3503 Verification Checklist, marked with all verifications required for MA. BEM 150, p. 7. A determination of eligibility for another MA program or total ineligibility for any program must be completed before SSIT can close. BEM 150, p. 7. When the ex parte review shows that a recipient does have eligibility for MA under another category, the Department must change the coverage. BAM 220, p. 17. If MA eligibility does not exist, the Department will send a negative action notice. BEM 150, p. 7.

At the hearing, the Department was unsure if Petitioner was transferred to SSIT MA coverage. The Department also provided no evidence that Petitioner or Petitioner's

AHR were sent the redetermination packet. Petitioner's AHR testified that she did not receive the redetermination packet. In the absence of such evidence, the Department failed to follow that it followed policy when it closed Petitioner's MA case.

Petitioner's AHR also submitted a new MA application on behalf of Petitioner when she learned of the impending MA closure. The application was submitted on October 29, 2018. Petitioner's AHR testified that no decision had been issued regarding the October 29, 2018, application.

The standard of promptness (SOP) begins the date the Department receives an application/filing form, with minimum required information. BAM 115 (October 2018), p. 15. For MA cases, the Department must certify program approval or denial of the application within 45 days. BAM 115, p. 16. Exceptions include: (i) 15 days for all pregnant MA applicants; (ii) 30 days for Refugee Medical Assistance (RMA) applicants; (iv) 90 days for MA categories in which disability is an eligibility factor. BAM 115, pp. 16-17.

The Department testified that as of the date of the hearing, Petitioner's application for MA benefits was pending. It was unclear as to why the application was still pending. Petitioner's October 29, 2018 application for MA benefits was well beyond the SOP. As such, the Department did not act in accordance with policy when processing Petitioner's MA application.

DECISION AND ORDER

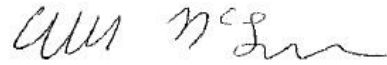
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA benefit case. The Department did not act in accordance with policy when it processed Petitioner's October 29, 2018 MA application.

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. Redetermine Petitioner's MA eligibility as of November 1, 2018, ongoing;
2. If Petitioner is eligible for MA, provide her with MA coverage she is entitled to receive as of November 1, 2018, ongoing;

3. Notify Petitioner and Petitioner's AHR of its decision in writing.



EM/jaf

Ellen McLemore

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

DHHS

Montrece White
MDHHS-Macomb-20-Hearings

Petitioner

[REDACTED]
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[REDACTED] MI [REDACTED]

Authorized Hearing Rep.

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