



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 13, 2019
MAHS Docket No.: 19-001163
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 11, 2019, from Detroit, Michigan. Petitioner was present with her Authorized Hearing Representative, [REDACTED]. Also present with Petitioner was her mother, [REDACTED] and her coordinator with Goodwill Industries, [REDACTED]. The Department of Health and Human Services (Department) was represented by Eric Murphy, Hearing Coordinator.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) 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. Petitioner was an ongoing MA recipient under the MA for Supplemental Security Income (SSI) recipients.
2. Effective July 1, 2018, Petitioner was no longer eligible for SSI. Effective July 1, 2018, Petitioner began receiving Retirement, Survivors, and Disability Insurance (RSDI) benefits (Exhibit B).
3. On November 7, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that her MA benefit case was closing effective September 1, 2018, ongoing (Exhibit A).

4. During the period of September 1, 2018 through November 30, 2018, Petitioner received MA coverage under the full-coverage Healthy Michigan Plan (HMP) program (Exhibit C, pp. 6-7).
5. Effective December 1, 2018, Petitioner began receiving Medicare benefits.
6. Effective December 1, 2018, ongoing, the Department closed Petitioner's MA benefit case.
7. On January 25, 2019, Petitioner's AHR requested a hearing to dispute the Department's actions.

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 AHR requested a hearing to dispute the Department's decision to close Petitioner's MA benefit case effective December 1, 2018. Specifically, Petitioner's AHR argued that Petitioner was eligible for MA benefits under the Disabled Adult Children (DAC) MA category. DAC is available to a person receiving DAC RSDI under section 202(d) of the Social Security Act if he or she: (1) is 18 or older; (ii) received SSI; (iii) ceased to be eligible for SSI on or after July 1, 1987, because he became entitled to DAC RSDI benefits under section 202(d) of the Act or an increase in such RSDI benefits; (iv) is currently receiving DAC RSDI under section 202(d) of the Act; and (v) would be eligible for SSI without such RSDI benefits. BEM 158 (October 2014), p. 1.

The Department testified that Petitioner was previously receiving MA for SSI recipients. However, effective July 1, 2018, Petitioner's SSI benefit case was closed, and she began receiving RSDI. On November 7, 2018, the Department sent Petitioner an HCCDN informing her that her MA benefit case had closed, effective September 1, 2018. The Department testified that Petitioner's MA benefit case was reinstated, and

she received full-coverage MA for the period of September 1, 2018 through November 30, 2018, under the HMP program.

Effective December 1, 2018, Petitioner became eligible for Medicare. The HMP program provides health care coverage for individuals who are: (i) 19 to 64 years of age; (ii) do not qualify for or are not enrolled in Medicare; (iii) do not qualify for or are not enrolled in other Medicaid programs; (iv) are not pregnant at the time of application; (v) meet Michigan residency requirements; (vi) meet Medicaid citizenship requirements; and (vii) have income at or below 133% of the Federal Poverty Level. BEM 137 (January 2018), p. 1. As Petitioner became eligible for Medicare, she could no longer receive benefits under the HMP program as of December 1, 2018. The Department closed Petitioner's MA benefit case as of December 1, 2018.

The Department could not provide any explanation as to why Petitioner's MA benefit case closed effective December 1, 2018 or why she was determined to be ineligible for MA benefits under other MA categories. The individual that testified at the hearing stated that Petitioner was eligible for MA benefits and that her case was closed in error. At the hearing, the Department stated that Petitioner's MA eligibility was redetermined and that she was approved for MA benefits under the Ad-Care MA program effective December 1, 2018. The Department was advised to send Petitioner's MA eligibility summary.

Initially the Department sent Petitioner's MA eligibility summary which showed Petitioner qualified for MA benefits under the Freedom to Work (FTW) MA category effective December 1, 2018 (Exhibit C, pp. 8-11). The Department then sent a second MA eligibility summary showing Petitioner was approved for MA benefits under the DAC program (Exhibit C, pp. 1-5).

Due to the inconsistencies, the Department failed to establish it properly determined Petitioner's MA eligibility. The Department testified Petitioner was approved for MA benefits under the Ad-Care program but then provided eligibility summaries showing she was approved for MA benefits under both the FTW category and DAC category. It is unclear as to why Petitioner's MA benefit case was initially closed, if she has been approved for MA benefits and under which program. Therefore, the Department failed to establish it properly followed policy when determining Petitioner's MA eligibility.

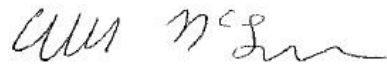
DECISION AND ORDER

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 determined Petitioner's MA eligibility.

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 December 1, 2018, ongoing;
2. If Petitioner is eligible for MA benefits, provide her with coverage she is entitled to receive as of December 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

Jeanette Cowens
MDHHS-Wayne-41-Hearings

Petitioner

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

Authorized Hearing Rep.

[REDACTED]
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