



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

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Date Mailed: June 12, 2019
MOAHR Docket No.: 19-002990
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 June 6, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Diane Coles, specialist.

ISSUE

The issue is whether MDHHS properly initiated termination of 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. As of February 2019, Petitioner was an ongoing recipient of MA benefits.
2. On February 20, 2019, MDHHS mailed Petitioner a Health Care Coverage Supplemental Questionnaire (HCCSQ). Petitioner's due date to return the HCCSQ was March 4, 2019. Exhibit A, pp. 11-14.
3. On March 20, 2019, MDHHS initiated termination of Petitioner's MA eligibility, effective March 2019, due to a failure to return a HCCSQ. Exhibit A, pp. 7-9.

4. On March 27, 2019, Petitioner requested a hearing to dispute the termination of MA benefits. Exhibit A, p. 2.
5. As of March 27, 2019, Petitioner had not submitted a HCCSQ to MDHHS.
6. On March 28, 2019, MDHHS mailed Petitioner a second HCCSQ. The due date for Petitioner to return the document was April 8, 2019.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute an initiated termination of MA. A Health Care Coverage Determination Notice dated March 20, 2019, stated that Petitioner's MA eligibility would end beginning March 2019 due to an alleged Petitioner failure to return a HCCSQ. Exhibit A, pp. 16-19.

The DHS-1004, Health Care Coverage Supplemental Questionnaire, is used to gather additional information when the applicant indicates a disability on the application for MA benefits. BEM 105 (April 2017), p. 4. For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. For MA benefits, MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
 - The time period given has elapsed.
- Id.*, p. 8.

In the present case, MDHHS mailed Petitioner a HCCSQ on February 20, 2019, with a due date of March 4, 2019. Petitioner testified that she completed and returned the HCCSQ but her testimony did not allege that she did so before MDHHS initiated termination of MA benefits. Petitioner testified that she first faxed the document to MDHHS on March 29, 2019, and then again on April 8, 2019.¹ Both of Petitioner's fax

¹ During the hearing, MDHHS acknowledged that Petitioner had a fax confirmation of a fax to MDHHS on April 8, 2019.

dates were after MDHHS initiated termination of Petitioner's MA eligibility and before Petitioner requested a hearing. Based on the evidence, Petitioner did not submit a HCCSQ to MDHHS before MDHHS initiated termination of Petitioner's MA eligibility. Thus, the initiated termination of Petitioner's MA benefits was proper.

It should be noted that Petitioner's late submission to MDHHS may have been sufficient to stop the pending termination of MA benefits. The closure notice sent by MDHHS warned of closure by April 1, 2019. Petitioner's alleged submission of a HCCSQ on March 28, 2019 would have been before her case closed. If Petitioner indeed submitted a HCCSQ to MDHHS before April 1, 2019, then MDHHS was required to stop the pending closure or reinstate Petitioner's MA eligibility. An analysis of whether Petitioner submitted a HCCSQ before April 1, 2019, may not be undertaken because Petitioner's actions occurred after she requested a hearing; administrative hearing jurisdiction is limited to actions occurring before a client's hearing request. To establish administrative hearing jurisdiction for a dispute of whether MDHHS should have stopped the pending closure of MA benefits, Petitioner would have to separately and timely request a hearing.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly initiated termination of Petitioner's MA eligibility on March 20, 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf



Christian Gardocki

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 Office of Administrative Hearings and Rules (MOAHR).

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

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

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

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

DHHS

Denise McCoggle
MDHHS-Wayne-15-Hearings

Petitioner

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