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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: July 11, 2019
MOAHR Docket No.: 19-005748
Agency No.: ██████████
Petitioner: ██████████

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 July 10, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented. ██████████, Petitioner's spouse, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Jeffrey Robinson, manager.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medicaid (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. On November 10, 2015, Petitioner electronically submitted to MDHHS an application for Medicaid. Petitioner's application did not list information for income or assets. Petitioner requested auto-renewal for at least three years. Exhibit A, pp. 8-29.
2. On an unspecified date, MDHHS approved Petitioner for ongoing Medicaid.
3. On an unspecified date, MDHHS concluded that Petitioner's application dated November 10, 2015, was incomplete due to the absence of asset and income information. MDHHS concluded that case closure was proper due to the allegedly incomplete application.

4. As of May 2019, Petitioner was pregnant.
5. On May 17, 2019, MDHHS terminated Petitioner's MA eligibility beginning June 2019. The notice stated that Petitioner was denied under an MA category for pregnant women due to not being pregnant. Healthy Michigan Plan (HMP) eligibility was denied due to excess income.
6. On May 28, 2019, Petitioner requested a hearing to dispute the termination of Medicaid.

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 a termination of Medicaid. During the hearing, MDHHS claimed that Petitioner's Medicaid was properly stopped because it was improperly opened.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

MDHHS testimony claimed that Petitioner's application from 2015 was incomplete due to not including asset or income information. MDHHS' claim of an incomplete application was dubious because Petitioner submitted the application electronically and MDHHS would seem to have the technology to not allow an application to be submitted without all reported information. Further, MDHHS claimed that income and asset information was required, yet, assets and income verifications are not factored for MAGI-related Medicaid categories (see BEM 400 and BAM 130). Furthermore, the claimed reason justifying termination was not among the reasons for denial on the

written notice. Despite MDHHS' questionable claim, for purposes of this decision, it will be assumed that MDHHS lacked required information for Petitioner's ongoing Medicaid eligibility.

MDHHS essentially contended that terminating benefits is proper if MDHHS had insufficient information to open a case. No known MDHHS policy would justify such a closure. More importantly, MDHHS must inform the client of the reason for closure in a written notice. BAM 220 (April 2019) p. 2. The written notice dated May 17, 2019, sent to Petitioner concerning terminating Medicaid eligibility stated nothing about MDHHS not having sufficient information of eligibility. Instead, the notice stated that Petitioner was ineligible for various Medicaid categories. For example, Petitioner was stated to be ineligible for a pregnancy-related category due to not being pregnant; Petitioner was pregnant at the time of written notice. The notice also stated that Petitioner was ineligible under Healthy Michigan Plan due to excess income; based on MDHHS' own testimony, an income determination of HMP could not be made.

Given the evidence, it cannot be stated with certainty that Petitioner is eligible for Medicaid under pregnancy and/or HMP categories. The evidence does support finding that MDHHS improperly terminated Petitioner's ongoing eligibility due to MDHHS listing improper reasons for closure on the written notice. Petitioner's remedy is reinstatement of benefits until a proper determination is made and proper notice is issued.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's Medicaid eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

(1) Reinstate Petitioner's Medicaid eligibility effective June 2019 subject to the findings that:

- MDHHS failed to justify benefit termination for the reasons on the notice dated May 17, 2019; and
- MDHHS failed to send written notice of benefit termination due to incomplete information;

(2) Supplement Petitioner for Medicaid benefits beginning June 2019.

The actions taken by MDHHS are **REVERSED**.

CG/



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

Linda Gooden
MDHHS-Oakland-6303-Hearings

Petitioner

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