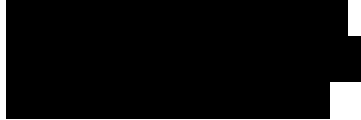




GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: December 17, 2019
MOAHR Docket No.: 19-011392
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 December 9, 2019, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's son ineligible for Medical Assistance (MA) benefits from April 1, 2018 through August 31, 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. On February 5, 2018, the Department sent Petitioner a Redetermination relating to MA benefits.
2. The Redetermination was due on or before March 7, 2018.
3. The Redetermination was sent to Petitioner's old address and never received by Petitioner.
4. On March 19, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that her son was ineligible for MA benefits effective April 1, 2018.

5. The Health Care Coverage Determination Notice was also mailed to Petitioner's old address.
6. On or about August 30, 2018, Petitioner sought medical treatment for her son, which was denied because his MA benefits were inactive.
7. Petitioner contacted her assigned case worker who agreed to reinstate Petitioner's son's MA benefits.
8. Petitioner's assigned case worker reinstated the benefits effective September 1, 2019.
9. Petitioner has an unpaid medical bill for services rendered to her son on or about August 30, 2018.
10. The Department has refused to pay the August 30, 2018 medical bill because Petitioner's son's MA benefits were not active at the time the bill was incurred.
11. On October 17, 2019, Petitioner filed a Request for Hearing disputing 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.

Additionally, the Department is required to redetermine or renew an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (July 2014), p. 1. In this case, the Department indicated that it mailed a Redetermination to Petitioner on February 5, 2018. The Redetermination was required to be completed and returned by March 7, 2018. Petitioner did not return the Redetermination by the required due date. The Department indicated that because Petitioner failed to timely return the Redetermination, it sent Petitioner a Health Care Coverage Determination Notice which informed Petitioner that effective April 1, 2018, her son was ineligible for MA benefits.

A negative action, as defined by the Department, is an MDHHS action to deny an application or to reduce, suspend or terminate a benefit. This includes an increase in a post-eligibility patient-pay amount for MA or an increase in the client pay for a special living arrangement. See BAM 220 (January 2018), p. 1. A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested. See BAM 220, pp. 2-3.

Petitioner testified that the Department mailed both the Redetermination and the Health Coverage Determination Notice to an old address. As such, Petitioner never received either document. Further, Petitioner testified that she has two other minor children who receive MA benefits and information regarding their benefits have been sent to the correct address. The Department confirmed that it has had Petitioner's new address since 2017. The Department conceded that the Redetermination and Health Care Coverage Determination Notice was mailed to the incorrect address.

The Department argued that because more than 90 days had expired since it sent the March 2018 Health Care Coverage Determination Notice, the hearing request should be dismissed. BAM 600 (April 2018), p. 6. However, because the Department failed to send the Health Coverage Determination Notice to the correct address, it is found that Petitioner's 90 days did not expire because she never received notice of her appeal rights.

Petitioner testified that she first became aware that her son's MA benefits were inactive on or about August 30, 2018, when she attempted to seek medical treatment on his behalf. After being informed by the treating physician that the MA benefits were inactive, Petitioner contacted her assigned case worker. Petitioner testified that her assigned case worker acknowledged the mistake and indicated that her son's MA benefits would be reinstated. However, Petitioner later learned that her son's MA benefits were reinstated effective September 1, 2018, but not prior to that date. The Department confirmed that Petitioner's son's MA benefits were reinstated effective September 9, 2018.

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 son's MA benefits for failure to return the Redetermination which was sent to the incorrect address

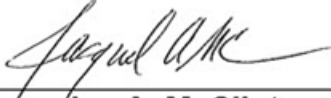
DECISION AND ORDER

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 eligibility for MA benefits from April 1, 2018 through August 31, 2018;
2. If Petitioner's son was eligible for supplements, issue MA supplements for the period of April 1, 2018 through August 31, 2018; and
3. Notify Petitioner in writing of its decision.

JAM/jaf



Jacquelyn A. McClinton
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 (via electronic mail)

Susan Noel
MDHHS-Wayne-19-Hearings
BSC4
D Smith
EQAD

Petitioner (via first class mail)

