



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 28, 2020
MOAHR Docket No.: 19-012605
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 January 29, 2020 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Inea Ali, Assistance Payments Worker. During the hearing, an 11-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-11.

ISSUE

Did the Department properly strip Petitioner of his full-coverage Medicaid (MA) benefits without notice, effective November 1, 2019?

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 recipient of full-coverage MA benefits from the Department.
2. According to the Ms. Ali's testimony, the full-coverage benefits were only provided because the Department erroneously budgeted a medical expense as ongoing for multiple years when it allegedly only was a one-time expense. The Department's position was that during that time, Petitioner should have only had a deductible plan.

3. On October 2, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that, effective November 1, 2019, ongoing, Petitioner was eligible for full-coverage MA. The Department did not include that document in the packet. However, Ms. Ali testified that the October 2, 2019 notice was the last Health Care Coverage Determination Notice issued to Petitioner prior to the date Petitioner filed the hearing request.
4. At some point, Petitioner discovered that he did not have full-coverage MA benefits from the Department.
5. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's stripping of his MA benefits without notice.

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.

Prior to the reduction of Petitioner's MA benefits, effective November 1, 2019, Petitioner was receiving full-coverage MA benefits from the Department. According to Ms. Ali's testimony, the Department had even issued Petitioner a Health Care Coverage Determination Notice on October 2, 2019 confirming that Petitioner was eligible for full-coverage MA. Then, without notice, the Department stripped Petitioner's full-coverage MA benefits and imposed a monthly deductible. When Petitioner discovered that he no longer had the benefits he was informed that he had, he filed a request for hearing.

Upon certification of eligibility results, the Department notifies a client in writing of positive and negative actions by generating an appropriate notice of case action. BAM 220 (April 2019), p. 2. A notice of case action must inform the client of (1) the action being taken by the Department, (2) the reason or reasons for the action, (3) the basis in policy for the action, (4) how to contest the action, and (5) the conditions under which benefits are continued if a hearing is requested. BAM 220, pp. 2-3. A positive action is a Department action to approve an application or increase a benefit. BAM 220, p. 1. A

negative action is a Department action to deny an application or to reduce, suspend, or terminate a benefit. BAM 220, p. 1.

There are two types of notices, adequate notice and timely notice. BAM 220, p. 2. Adequate notice is a written notice sent to the client at the same time an action takes effect and is given for an approval or denial of an application and for increases in benefits. BAM 220, pp. 3-4. Timely notice is given for a negative action unless policy specifies adequate notice or no notice applies. BAM 220, p. 4. A timely notice is mailed at least 11 days before the intended negative action take effect. BAM 220, p. 5. The action is pended to provide the client a chance to react to the proposed action. BAM 220, p. 5. If an error leads to a client receiving MA coverage that he or she was not entitled to, the period of erroneous coverage cannot be removed or reduced. BAM 115 (April 2019), p. 33.

On October 2, 2019, Petitioner received a Health Care Coverage Determination Notice informing him that he was approved for full-coverage MA benefits for an ongoing period. Petitioner received that coverage all the way through some uncertain time when the Department took negative action to strip him of that coverage and imposes a new deductible. Again, Petitioner was never notified by the Department via a Health Care Coverage Determination Notice that any change had taken place.

As the change from a full-coverage MA program to one that imposes a deductible constituted a negative action, the Department was required to provide timely notice. However, no document was issued to inform Petitioner of the change. As there was no notice issued in a timely manner to impact November 2019 benefits, the Department violated law and Department policy.

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 stripped Petitioner of his full-coverage MA benefits without notice, effective November 1, 2019.

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. Reinstate Petitioner's full-coverage MA coverage back to November 1, 2019 and provide the same unless and until the Department properly provides timely notice of a negative action;

2. If Petitioner is eligible for any additional coverage that was not provided, ensure that it is properly provided;
3. If any eligibility-related factors are unclear, inconsistent, contradictory, or incomplete, follow Department policy regarding verifications;
4. Notify Petitioner in writing of its decisions.

JM/tm



John Markey
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

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Petitioner

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cc: ME—D. Smith; EQADHShearings
AP Specialist-Wayne County