



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: February 18, 2020
MOAHR Docket No.: 20-000353
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 February 13, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearing facilitator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's children's Medicaid 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 September 2019, Petitioner's children, [REDACTED] (hereinafter, "Child1") and Hadi (hereinafter, "Child2") were ongoing recipients of Medicaid.
2. On an unspecified date, MDHHS requested verification of Petitioner's and her spouse's income.
3. On November 6, 2019, Petitioner returned to MDHHS verification of her and her spouse's income. Returned documents included Petitioner's spouse's biweekly pay history for October 4, 2019, October 18, 2019, and November 1, 2019.

4. On November 16, 2019, MDHHS terminated Child1's Medicaid eligibility beginning October 2019. MDHHS also terminated Child2's Medicaid eligibility beginning November 2019.
5. On January 6, 2020, Petitioner requested a hearing to dispute the termination of Child1 and Child2's Medicaid eligibility.

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 her children's Medicaid eligibility. Exhibit A, pp. 10-11. A Health Care Coverage Determination Notice dated November 15, 2019, stated that Child1's Medicaid eligibility ended beginning October 2019 and that Child2's Medicaid eligibility ended beginning November 2019. Exhibit A, pp. 5-9. No explanation was given for the different ending months for each child's Medicaid eligibility. The stated reason for both Medicaid closures was a failure to verify income. MDHHS' Hearing Summary and testimony clarified that employment income for Petitioner's spouse was not returned.

Wages are the pay an employee receives from another individual organization or S-Corp/LLC. BEM 501 (October 2019) p. 6. For all programs other than Medicaid under the category of Children Under 19, wages must be verified at application, program add, member add, redetermination, or whenever otherwise required by policy. *Id.*, pp. 9-10

For all programs, MDHHS is to inform 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. 8. MDHHS may send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

MDHHS did not state a reason for why wage information was requested from Petitioner. MDHHS did not present a Verification Checklist from before the date that benefit termination was initiated. MDHHS also did not verify that Petitioner's children were ineligible for Medicaid under Children Under 19 and that verification was needed to examine eligibility for other Medicaid categories. Despite all these shortcomings, it will

be accepted, for purposes of this decision only, that MDHHS properly requested and required 30 days of employment income verification for Petitioner's spouse.

During the hearing, MDHHS testimony acknowledged that Petitioner returned on November 6, 2019, biweekly income documents for her spouse. The pay documents were dated October 4, 2019, October 18, 2019, and November 1, 2019. The documents returned by Petitioner were before the closure notice sent by MDHHS on November 15, 2019. MDHHS provided no explanation for why Petitioner's submission was unsatisfactory.

Given the evidence, MDHHS failed to establish that Petitioner failed to return verification of her spouse's income. Thus, the termination of Petitioner's children's Medicaid eligibility was also improper. The circumstances merit a full reinstatement of Medicaid benefits for Petitioner's children.

During the hearing, Petitioner expressed concern over reimbursement of medical bills which were paid out-of-pocket after Medicaid closure. As discussed during the hearing, Petitioner would have to seek reimbursement from the billers of Medicaid. Petitioner was advised to contact the medical expense billers after Medicaid is reinstated. For Petitioner to receive reimbursement, she would have to request the billers to pursue Medicaid payment, and then return her out-of-pocket payments after Medicaid issues payment.

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 children's Medicaid eligibility. MDHHS is ordered to commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstated Child1's Medicaid eligibility beginning October 2019 and Child2's Medicaid eligibility beginning November 2019, subject to the finding that Petitioner timely returned income verification for her spouse; and
- (2) Issue notice of reinstatement in accordance with policy.

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

CG/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 Administrative Hearings and Rules.

Via Email:

MDHHS-Wayne-19-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

