



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: July 9, 2020
MOAHR Docket No.: 20-003580
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 July 6, 2020 from Detroit, Michigan. Petitioner was represented by Authorized Hearings Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Monica Richardson, Family Independence Specialist.

ISSUE

Did the Department properly determine that Petitioner was ineligible for Medicaid (MA) benefits under the Freedom to Work (FTW) program, effective April 1, 2020?

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 is disabled and an ongoing recipient of MA benefits from the Department under the FTW program.
2. In February 2020, Petitioner was separated from him employment due to his medically related inability to perform assigned tasks.
3. On March 4, 2020, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA benefits case under the FTW program would be closing, effective April 1, 2020. Thereafter, Petitioner was found to be eligible for MA subject to a deductible.

4. On [REDACTED] 2020, Petitioner submitted to the Department a request for hearing objecting to the Department's March 4, 2020 Health Care Coverage Determination 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.

In this case, Petitioner objected to the Department's downgrading of his MA benefits from FTW to a deductible plan, effective April 1, 2020, due to Petitioner's loss of employment in February 2020. During the Pre-Hearing Conference attended by Petitioner's AHR, the Department indicated that Petitioner's separation was not disqualifying and wrote a narrative explaining why on the Hearing Summary. Likewise, during the hearing, the Department witness, [REDACTED], conceded that Petitioner's separation from employment was not disqualifying and that Petitioner's benefits had been reinstated. However, Petitioner had not been given proper notice of either change, and the Department's records were not clear concerning the real reason why the benefits were reinstated.

FTW is an SSI-related full-coverage MA program; as a disabled individual with earned income, Petitioner was eligible for benefits under the FTW MA program. BEM 174 (January 2020), p. 1. One of the conditions of ongoing eligibility is that the individual must be employed. BEM 174, p. 1. However, an individual may retain his or her FTW eligibility despite having temporary breaks in employment up to 24 months if the break is the result of an involuntary layoff or is determined to be medically necessary. BEM 174, p. 1.

Both during the Pre-Hearing Conference and the hearing itself, the Department assured Ms. [REDACTED] that Petitioner's separation from employment in February 2020 was not disqualifying as it was determined to be medically necessary. After reviewing the record, it is clear that the separation was not disqualifying. Thus, the Department's Health Care Coverage Determination Notice holding otherwise is reversed.

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 determined that Petitioner was ineligible for MA benefits under the FTW program, effective April 1, 2020.

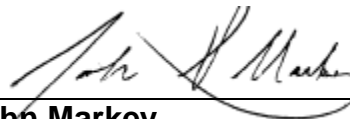
DECISION AND ORDER

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 MA benefits under the FTW program back to April 1, 2020 and continue to provide those benefits unless and until timely notice of negative action is provided; and
2. 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

Kara Gubancsik
30755 Montpelier Drive
Madison Heights, MI 48071

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

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