



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], MI [REDACTED]

Date Mailed: August 6, 2020
MOAHR Docket No.: 20-003765
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 9, 2020 from Lansing, Michigan. The Petitioner was represented by herself and her case manager, Amanda Harris. The Department of Health and Human Services (Department) was represented by Brain Roevema, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA)?

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 a recipient of MA.
2. On October 21, 2019, Petitioner was approved for MA Freedom to Work (FTW) effective September 1, 2019, through November 30, 2019, with a premium of \$48.55 due December 1, 2019, ongoing that was sent to her authorized representative, Interact, at [REDACTED] [REDACTED] through a Health Care Coverage Determination Notice, DHS-1606. Department Exhibit 1, pgs. 7-9. There was no evidence presented that the notice was sent to Petitioner.
3. The Department Caseworker sent Petitioner a bill notice of a payment coupon for her FTW premium on November 1, 2020, December 4, 2019, and January 6, 2020,

to Petitioner's mailing address at [REDACTED]. Department Exhibit 1, pgs. 10-15. There was no evidence presented that a copy of this notice was sent to her authorized representative, Interact.

4. On December 12, 2019, the Department Caseworker sent Petitioner a notice of late premium due to Petitioner's address. Department Exhibit 1, pg. 16. There is no evidence that this notice was sent to the authorized representative.
5. On January 11, 2020, the Department Caseworker sent Petitioner a Health Care Determination Coverage Notice, DHS-1606, that her MA FTW was closed due to failure to pay monthly premiums that was sent to Petitioner's mailing address. Department Exhibit 1, pgs. 18-21. There was no evidence presented that the notice was sent to her authorized representative.
6. On February 25, 2020, Petitioner submitted a new application for MA with Interact listed as her payee. Department Exhibit 1, pgs. 22-28.
7. On April 3, 2020, the Department Caseworker processed her MA application where she was approved with a deductible because she was no longer employed and not eligible for MA FTW and sent a notice to Petitioner's mailing address of a Health Care Coverage Determination Notice, DHS-1606. Department Exhibit 1, pgs. 29-32. There was no evidence presented that this was sent to the authorized representative.
8. On April 8, 2020, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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 was a recipient of MA. On October 21, 2019, Petitioner was approved for MA Freedom to Work (FTW) effective September 1, 2019, through November 30, 2019, with a premium of \$48.55 due December 1, 2019, ongoing that was sent to her authorized representative, Interact, at [REDACTED].

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On February 25, 2020, Petitioner submitted a new application for MA with Interact listed as her payee. Department Exhibit 1, pgs. 22-28. On April 3, 2020, the Department Caseworker processed her MA application where she was approved with a deductible because she was no longer employed and not eligible for MA FTW and sent a notice to Petitioner's mailing address of a Health Care Coverage Determination Notice, DHS-1606. Department Exhibit 1, pgs. 29-32. There was no evidence presented that this was sent to the authorized representative. On April 8, 2020, the Department received a hearing request from Petitioner, contesting the Department's negative action. BEM 174. BAM 105, 130, 220, and 600.

This Administrative Law Judge finds that a notice was never sent to the mailing address of Petitioner and her payee, but rather either or based on exhibits provided in the hearing packet. Department policy requires a notice be sent to Petitioner and their authorized representative. As a result, the Department did not follow Departmental policy in providing appropriate notice for this case.

DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not send a notice to Petitioner and her authorized representative payee.

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. Initiate a redetermination of Petitioner's eligibility for MA FTW by redetermining eligibility and sending a notice to Petitioner and her authorized representative payee from December 2019 until she was laid off from her job with the opportunity to pay the FTW monthly premiums.
2. Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

CF/hb



Carmen G. Fahie
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

Kent County via electronic mail

BSC3 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

[REDACTED], MI [REDACTED]