



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

████████████████████
████████████████████
██████████ MI 48224

Date Mailed: July 7, 2021
MOAHR Docket No.: 21-002517
Agency No.: ██████████
Petitioner: ██████████

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 hearing was held via telephone conference line on July 1, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Linda Perkins, specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's eligibility for Medical Assistance (MA) benefits

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 May 2020, Petitioner was an ongoing recipient of MA benefits.
2. Beginning June 2020, MDHHS terminated Petitioner's MA eligibility.
3. On ██████████ 2021, Petitioner requested a hearing to dispute the termination of MA benefits.
4. As of July 1, 2021, the date of administrative hearing, MDHHS had not sent Petitioner notice of MA termination.

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 Medicaid benefits. Exhibit A, pp. 3-5. Petitioner testified that MDHHS ended her MA benefits beginning June 2020. MDHHS presented no evidence indicating when Petitioner's MA eligibility stopped. Given the limited evidence, it is found that MDHHS ended Petitioner's MA eligibility beginning June 2020.

MDHHS testified that Petitioner's MA eligibility stopped June 2020 because of her supposed death. MDHHS acknowledged that Petitioner did not die.¹ MDHHS also acknowledged that notice of MA termination was not sent because it thought that Petitioner died.

For all programs, MDHHS automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (July 2020) p. 2. Notices must include the action taken by MDHHS, the reason for the action, the specific manual item which cites the legal basis for action, an explanation of the right to request a hearing, and the conditions under which benefits may be continued if a hearing is request. *Id.*, pp. 2-3.

If reliable information verifies a client's death, MDHHS is to send adequate written notice. *Id.*, p. 3. Adequate notice is effective the date of the notice. *Id.*

Upon learning that Petitioner did not die, MDHHS should have immediately reinstated Petitioner's MA benefits. Further, even if Petitioner had died, written notice was required. Petitioner is entitled to full reinstatement of her MA case due to MDHHS's improper closure and failure to send notice.

Instead of MA reinstatement, MDHHS's Hearing Summary contended that Petitioner's MA eligibility properly ended due to a later alleged Petitioner failure to timely return employment information. MDHHS wrote that a request for wage match information was mailed to Petitioner on November 17, 2020, and that Petitioner failed to return verifications. MDHHS never sent notice of closure based on Petitioner's alleged failure to return a wage match. Again, without proper written notice, MDHHS cannot close

¹ Petitioner testified that she applied for assistance with her mother's burial around the time when MDHHS halted her MA eligibility. She reasonably believes that MDHHS confused Petitioner with her deceased mother.

Petitioner's case. Thus, MDHHS's claim of an ultimately improper denial is unpersuasive. For good measure, three other reasons exist for reversing the termination from June 2020 based on an alleged failure of Petitioner to verify income. First, MDHHS failed to present documentary evidence (i.e.- the verification request) that a proper request was made for wage information. Secondly, Petitioner's alleged failure to verify income might justify MA termination after the verification attempt but cannot justify benefit termination back to June 2020. Thirdly, Petitioner did timely return income verification to MDHHS on November 30, 2020. Exhibit A, pp. 9-18.

Given the evidence, MDHHS improperly terminated Petitioner's MA eligibility beginning June 2020. As stated above, Petitioner is entitled to MA benefit reinstatement back to June 2020.

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 MA eligibility beginning June 2020. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's ongoing MA eligibility beginning June 2020; and
- (2) Issue supplements and notice in accordance with policy.

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

CG/tm



Christian Gardocki
Administrative Law Judge

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

Via Email:

MDHHS-Wayne-57-Hearings
C. George
EQADHearings
BSC4
MOAHR

**Petitioner –
Via First-Class Mail:**

████████████████████
████████████████████
████████ MI 48224