



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

██████████
██████████
██████████
██████████, MI ██████████

Date Mailed: September 29, 2021
MOAHR Docket No.: 21-004080
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 September 22, 2021. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Michelle Collins, hearings coordinator.

ISSUE

The issue is whether MDHHS properly suspended Petitioner's Medical Assistance (MA) 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 June 2020, Petitioner was an ongoing recipient of Medicaid under the Healthy Michigan Plan (HMP).
2. On an unspecified date, MDHHS suspended Petitioner's MA case.
3. On ██████████ 2021, Petitioner requested a hearing to dispute MA eligibility. Petitioner additionally requested a hearing to dispute Food Assistance Program (FAP) eligibility.
4. On September 22, 2021, during an administrative hearing, Petitioner withdrew his dispute over FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute FAP eligibility. Exhibit A, pp. 3-4. Petitioner testified that he disputed a recent decrease in FAP benefits. Petitioner further testified that his dispute has been resolved and that he no longer needs a hearing concerning FAP benefits. Due to Petitioner's partial hearing request withdrawal, his dispute over FAP benefits will be dismissed.

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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute an apparent termination of MA benefits. Exhibit A, pp. 3-4. MDHHS did not send Petitioner notice of MA termination. During the hearing, Petitioner was asked why he thought his MA benefits ended if he did not receive written notice. Petitioner responded that he thought that his MA benefits were terminated because he was recently told by a pharmacy that he did not have Medicaid after an attempt to fill a prescription.

MDHHS presented documentation listed Petitioner as an ongoing recipient of HMP since June 2020. Exhibit B, p. 1. HMP is an MA category that entitles recipients to full Medicaid benefits (see BEM 137). This was suggestive that Petitioner received full Medicaid; however, the documentation also listed Petitioner as eligible for Medicaid subject to a [REDACTED] monthly deductible. Recipients of Medicaid subject to a deductible are only eligible for Medicaid after verifying that incurred medical expenses meet or exceed the deductible amount (see BEM 545).

MDHHS testified that Petitioner's case did not technically close. MDHHS explained that Petitioner's contradictory MA eligibility in its database likely prevented Petitioner's pharmacy from verifying Petitioner's Medicaid eligibility.¹ The inability for medical providers to bill Medicaid resulted in a functional suspension of Petitioner's MA eligibility.

Since the COVID-19 pandemic began in March 2020, MDHHS suspended any negative actions (e.g., terminations, suspensions...) on Medicaid cases pursuant to Memo 2020-12 from the Economic Stability Administration (ESA). The recent suspension of Petitioner's MA benefits is a negative action prohibited by ESA Memo 2020-12.

Given the evidence, MDHHS improperly suspended Petitioner's MA benefits. As a remedy, MDHHS will be ordered to allow Medicaid billing for Petitioner's ongoing MA case. A specific date of MA suspension was not verified; thus, MDHHS will be ordered to correct the benefit suspension back to the unspecified start date.²

¹ The evidence suggested that Petitioner was eligible for HMP, but later became ineligible due to income from the Social Security Administration. Based on Petitioner's income, he is likely only eligible for Medicaid subject to a monthly deductible. Petitioner testified that he requested a hearing to dispute the determination that he is eligible only for Medicaid subject to a deductible. Petitioner's testimony is unlikely as there was no evidence of a recent determination made to Petitioner's MA eligibility. Thus, no analysis will be undertaken to determine Petitioner's actual MA eligibility.


² MDHHS indicated that it will immediately contact its technical support unit so Petitioner's access to Medicaid can be restored.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew his dispute over a determination of FAP benefits. Concerning the dispute of FAP benefits, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly suspended Petitioner's MA eligibility. It is ordered that MDHHS correct the suspension of Petitioner's MA benefits back to the unknown suspension date. The actions taken by MDHHS are **REVERSED**.

CG/tm



Christian Gardocki
Administrative Law Judge

