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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: June 22, 2022
MOAHR Docket No.: 22-001896
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on May 25, 2022 via teleconference. Petitioner appeared and represented herself. Brenda Drewnicki, Hearing Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly close Petitioner's Medicaid (MA) case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On ██████████ 2021, Petitioner submitted an application for health care coverage through the Federally Facilitated Marketplace (FFM) (Exhibit A, p. 1). Petitioner's application was forwarded to MDHHS because there was potential MA eligibility (Exhibit A, p. 1).
2. On February 18, 2022, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was approved for full-coverage MA through the Healthy Michigan Plan (HMP), effective November 1, 2021 (Exhibit A, p. 5).
3. On April 19, 2022, Petitioner filed a Change Report requesting a hearing and that her MA benefits be terminated, and case closed, effective November 16, 2021 (Exhibit A, p. 3).

4. On May 2, 2022, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that Petitioner's MA would be closed, effective June 1, 2022, because Petitioner requested that the coverage be stopped (Exhibit A, p. 9).

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 Medicaid (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. MA is also referred to as Medical Assistance.

In this case, Petitioner disputed the approval of her MA benefits and the effective date of the MA case closure. Petitioner applied for health care benefits through the Federally Facilitated Marketplace (FFM). The application was transferred to MDHHS because there was potential eligibility for MA. MDHHS approved Petitioner for MA coverage, effective November 16, 2021. However, Petitioner stated that she never applied for MA coverage and that she already obtained coverage through FFM. Petitioner indicated that the MA coverage was negatively impacting her FFM coverage.

After receiving Petitioner's request to close her MA case, MDHHS sent Petitioner a Health Care Determination Notice, indicating that her MA coverage would be terminated, effective June 1, 2022. Petitioner disputed this action, stating that she needed the coverage to be closed effective November 16, 2021. MDHHS testified that it could not retroactively terminate MA coverage because of the notice requirements for a negative action.

Upon certification of eligibility results for program benefits, MDHHS automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (November 2021), p. 2. There are two types of notice: adequate and timely. *Id.*, p. 3. Timely notice is given for a negative action unless policy specifies adequate or no notice. *Id.*, p. 5. A timely notice is mailed at least 11 days before the negative action takes effect. *Id.* The action is pended to provide the client a chance to react to the proposed action. *Id.* Adequate notice is written notice sent to the client at the same time an action takes effect, meaning the action is not pended. *Id.* Adequate notice is given when a recipient of benefits requests in writing that the benefits be terminated and the case closed. *Id.*

The standard of promptness (SOP) is the maximum time MDHHS has to complete a required case action. BAM 220, p. 7. For MA, MDHHS is required to act on a reported change within 15 days after becoming aware of the change. *Id.* The effective date of the change depends on the circumstance start/change date, when the change was reported, when verification was received and the date the client became aware of the change. *Id.*, p. 9. MDHHS automatically calculates the effective date of a negative action, which includes medical coverage cancellation or reduction. *Id.*, pp. 11-12. An immediate negative action occurs when the negative action requires adequate notice based on policy. *Id.* As noted above, when a client requests case closure, only adequate notice is required. Adequate notice for an immediate negative action means that action taken by MDHHS is effective on the date the action is completed.

The record shows that Petitioner requested that her MA case be closed on April 19, 2022. Pursuant to the SOP, MDHHS had 15 days to act on this change. BAM 220, p. 7. MDHHS acted on the change on May 2, 2022, which was within the SOP. On May 2, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that her case would be closed effective June 1, 2022 (Exhibit A, p. 9). When a client requests a case closure for MA, adequate notice is required, meaning that notice is sent to the client at the same time the action takes effect, i.e., the action is not pended. Because only adequate notice is required for case closure, MDHHS should have terminated Petitioner's MA benefits effective May 2, 2022. The undersigned Administrative Law Judge finds no authority for MDHHS to terminate MA benefits retroactively.

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 MDHHS did not act in accordance with Department policy when it terminated Petitioner's MA benefits effective June 1, 2022.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Terminate Petitioner's MA benefits, effective May 2, 2022; and
2. Notify Petitioner if its decision in writing.



Linda Jordan
Administrative Law Judge

LJ/tm

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-Electronic Mail :

DHHS

Vivian Worden
Macomb County DHHS
Mt. Clemens Dist.
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Interested Parties

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Petitioner

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Via First-Class Mail: