



GRETCHEN WHITMER
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: February 8, 2023
MOAHR Docket No.: 22-005675
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 January 9, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Raven Douthard, Hearing Facilitator.

ISSUE

Did the Department properly determine 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. Petitioner is an ongoing recipient of MA benefits.
2. Petitioner was previously employed and earning income.
3. Petitioner was approved for MA under the Freedom to Work (FTW) category and responsible for monthly FTW premiums. (Exhibit 1)
4. On or around [REDACTED], 2021, Petitioner submitted an application for Food Assistance Program (FAP) benefits on which, she reported that she is no longer employed and does not have any income.
5. On or around October 6, 2021, the Department obtained information through the Work Number, indicating that Petitioner was no longer employed and did not have income.

6. On or around November 2, 2021, Petitioner submitted a change report advising the Department that as of August 20, 2021, she was no longer employed and had no earnings.
7. The Department removed Petitioner's income but did not conduct a review of her MA eligibility.
8. Petitioner continued to be approved for MA under the FTW and subject to monthly premiums for which she received monthly statements. (Exhibit 1)
9. On various occasions, Petitioner requested that the Department end her FTW MA coverage and transfer her MA coverage to a program without a premium.
10. As of December 2022, Petitioner had outstanding FTW premiums of around \$959.60. (Exhibit 1)
11. On or around December 5, 2022, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits, specifically, the Department's failure to review or transfer her MA coverage to a program that does not have monthly premiums. (Exhibit A, pp. 2-3).
12. In response to Petitioner's request for hearing, the Department transferred Petitioner's MA coverage to the Ad Care category effective January 2023.

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.

FTW is an SSI-related group 1 MA category available to clients with disabilities age 16-64 who also have earned income. As a condition of eligibility, the client must be employed. There are no premiums for individuals with MAGI (Modified Adjusted Gross Income) less than 138% of the federal poverty level (FPL). BEM 174, p. 3. A premium of 2.5 percent of the client's income will be charged for an individual with MAGI income between 138% of the FPL and \$75,000 annually. A premium of 100% of the average FTW participant cost will be assessed for an enrolled individual with MAGI income over

\$75,000. Bridges will automatically notify the premium coordinator when premiums for a FTW participant start/change/end. The premium coordinator has final determination over actual premium begin or amount change dates, as well as premium exclusions. Nonpayment of premium is automatically sent to Bridges and mass update will close the FTW category. However, an ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220. BEM 174 (January 2020), pp.1-4. Persons may qualify under more than one MA category and federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. the most beneficial category may change when a client's circumstances change; therefore, the Department is to consider all MA category options in order for the client's right of choice to be meaningful. BEM 105 (January 2021), pp.1-3.

In this case, Petitioner requested a hearing disputing the Department's failure to transfer her MA coverage from the FTW category to a more beneficial category, and her continued receipt of bills for monthly FTW premiums. Petitioner asserted that she continued to receive monthly statements showing that she owed FTW premiums which, as of the hearing date, totaled \$959.60.

At the hearing, the Department testified that after receiving Petitioner's December 2022 request for hearing, it ended her eligibility under the FTW category and effective January 2023, transferred Petitioner's MA coverage to the Ad Care category that does not have any monthly premiums. However, the Department acknowledged that it had become aware in September 2021 that Petitioner was no longer employed and was not earning income. The Department verified this information on or around October 6, 2021, by obtaining information from the Work Number. The Department further acknowledged that Petitioner had submitted Change Reports, and other correspondence to the Department disputing the continued receipt of bills or statements for unpaid monthly FTW premiums and requesting that her MA coverage be changed. The Department conceded that Petitioner's MA coverage should have been changed in October 2021 but due to agency error, this was not completed.

Directives implemented by the Department in response to the COVID-19 pandemic prohibited MA case closures for nonpayment of monthly FTW premiums and limited the ex parte review process. However, those directives authorized a change in the type of assistance from one category to another when the type of assistance changes to equal or greater coverage, which similarly to the present case, include a transfer from FTW with a monthly premium to the Ad Care or another MA category without a premium. The Department obtained verification that as of October 2021, Petitioner was no longer employed and did not have income. Therefore, she was not eligible for FTW MA coverage and should not have been responsible for continued monthly FTW premiums. Petitioner did not assert that she had outstanding medical bills or expenses that were

not covered under the FTW category, and it was established that her dispute was specifically with respect to the monthly FTW premiums and the outstanding statements she received.

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 processed Petitioner's MA eligibility.

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. Delete the outstanding FTW premiums applied to Petitioner's MA case effective October 1, 2021.

ZB/ml



Zainab A. Baydoun
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 Electronic Mail :

DHHS
Jeanenne Broadnax
Wayne-Taylor-DHHS
25637 Ecorse Rd.
Taylor, MI 48180
**MDHHS-Wayne-18-
Hearings@michigan.gov**

Interested Parties

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail :

Petitioner

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