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GOVERNOR

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

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██████████, MI ██████████

Date Mailed: February 28, 2024
MOAHR Docket No.: 23-008670
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 February 13, 2024, via teleconference. Petitioner appeared and represented herself. Valarie Foley, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA) coverage?

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 and her daughter and household member, ██████████ (Daughter), were ongoing recipients of MA coverage.
2. On November 11, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice stating that she and Daughter were approved for full coverage MA for the month of November 2023 and denied for MA from December 1, 2023, ongoing (Exhibit A, p. 6). Petitioner and Daughter's MA benefits were terminated in error (Exhibit A, p. 1).
3. On November 30, 2023, Petitioner filed a Request for Hearing to dispute the MA coverage termination (Exhibit A, pp. 3-5).

4. On December 4, 2023, Petitioner submitted an application for MA benefits on behalf of herself and Daughter, reporting disabilities for herself and Daughter (Exhibit A, pp. 10-13).
5. On January 4, 2024, MDHHS reinstated Petitioner's MA case. As of the day of the hearing, Petitioner was approved for Plan First MA and MA Ad-Care was pending for verification of disability (Exhibit A, p. 16). Daughter's MA benefits were also pending for verification of disability.

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).

Medicaid (MA) 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 the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

In this case, MDHHS acknowledged that it terminated Petitioner's household MA benefits in error at redetermination. The termination took effect on December 1, 2023. Petitioner subsequently reapplied for MA on behalf of herself and Daughter on December 4, 2023. At the hearing, MDHHS stated that MA benefits for the household were pending for verification of disability. MDHHS makes MA determinations for the calendar month. BEM 105 (October 2023), p. 2. Therefore, this decision addresses the household's eligibility for MA coverage from December 1, 2023 ongoing, because that is the date of the wrongful termination, and if found eligible, that is the date that MA coverage would begin based on the December 4, 2023 application.

MA includes several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* Plan First MA is a MAGI-related limited coverage MA category, that covers services related to family planning and reproductive health. To be eligible for Plan First, a person must meet all non-financial eligibility factors and their income cannot exceed 195% of the FPL. BEM 124 (July 2023), p. 1. Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.*

The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

To qualify for SSI-related MA based on disability, the individual must meet the definition of disability or blindness in the calendar month being tested. BEM 260 (January 2023), p. 1. Disability for the purposes of MA can be established by the receipt of Supplemental Security Income (SSI) or Retirement, Survivors and Disability Insurance (RSDI) based on disability status, as determined by the Social Security Administration (SSA). *Id.*, pp. 1-2. If the client is not eligible for RSDI based on disability or blindness, the Disability Determination Service (DDS) certifies disability and blindness. *Id.*, p. 3. However, if SSA has made a final determination that the individual is not disabled or blind for SSI, that decision takes precedence over a DDS determination. *Id.*

A client not eligible for RSDI based on disability or blindness must provide evidence of the disability or blindness to DDS. *Id.*, p. 4. MDHHS must make a referral to DDS by obtaining an DHS-49-F, Medical-Social Questionnaire, completed by the client. *Id.* The client is responsible for providing the evidence needed to prove disability or blindness. *Id.* However, MDHHS must assist the client when they request or need help. *Id.*

Here, Petitioner credibly testified that she and Daughter were disabled, but were not receiving SSI or RSDI. Petitioner further testified that she provided medical records to MDHHS in December 2023 in an attempt to verify her disability. No evidence was presented from MDHHS that it sent Petitioner the Medical-Social Questionnaire or that it requested additional verification of the disabilities, contrary to policy. MDHHS is required obtain a Medical-Social Questionnaire from the client and make a referral to DDS when the client claims a disability and is not eligible for SSI or RSDI based on disability or blindness. Additionally, no evidence was presented that Petitioner was not cooperating with MDHHS by failing to provide the requisite information. Therefore, MDHHS failed to establish that it followed the proper procedure to verify Petitioner's and Daughter's disabilities.

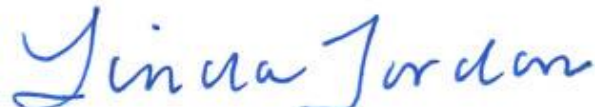
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when determined the household's eligibility for MA.

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. Redetermine Petitioner's and Daughter's eligibility for MA from December 1, 2023 ongoing, requesting additional information about disability status and making the proper referrals to DDS, as required;
2. If eligible, provide Petitioner and Daughter with the most beneficial MA coverage, from December 1, 2023 ongoing; and
3. Notify Petitioner of its decision(s) 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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties

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EQADHearings
BSC4

Via-First Class Mail :

Petitioner

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