



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR



Date Mailed: February 14, 2024
MOAHR Docket No.: 23-008745
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 February 12, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Michigan Department of Health and Human Services (Department or MDHHS) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (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. Petitioner was an ongoing recipient of MA and Medicare Savings Program (MSP) benefits.
2. Under the Families First Coronavirus Response Act (FFCRA), PL 116-127, Michigan received additional federal MA funding during the COVID-19 pandemic health emergency (PHE).
3. As a condition for receiving the increased funding, § 6008 of the FFCRA required that the Department provide continuous MA coverage for individuals who were enrolled in MA on or after March 18, 2020, even if those individuals became

ineligible for MA for reasons other than death, residing outside of Michigan, or requesting that MA be discontinued.

4. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
5. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
6. Beginning April 1, 2023, the CAA, 2023 required the Department to reevaluate almost all MA recipients' eligibility for ongoing MA.
7. On or around August 30, 2023, Petitioner submitted an application for Food Assistance Program (FAP) benefits to the Department and reported a change in mailing address.
8. On or around September 5, 2023, the Department sent Petitioner a redetermination/renewal for her MA case that was to be completed and returned by October 5, 2023. (Exhibit A, pp. 10-17)
 - a. The Department mailed the redetermination to a prior mailing address on file belonging to an authorized representative/attorney who had previously completed an assistance application on Petitioner's behalf.
9. The Department asserted that Petitioner failed to complete and return the redetermination/renewal for her MA case.
10. On or around November 17, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective December 1, 2023, her MA and MSP cases would be closed because she failed to return the redetermination. (Exhibit A, pp. 19-22)
11. The Health Care Coverage Determination Notice was sent to Petitioner's new mailing address.
12. On or around November 30, 2023, Petitioner requested a hearing disputing the closure of her MA case.

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 MA program is established by Title XIX of the Social Security Act, 42 USC 1396 *et seq*; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, PL 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, PL 111-152; 42 CFR 430.10 to 42 CFR 430.25; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq*.

In this case, Petitioner was previously approved for MA under the SSI-related Ad-Care program and MSP benefits under the Qualified Medicare Beneficiaries (QMB) category, which is a full coverage MSP that pays Medicare premiums. Both Ad-Care and QMB are considered non-Modified Adjusted Gross Income (MAGI) based MA programs. BEM 105 (October 2023), p.1; BEM 165 (October 2022), p. 1.

The Department must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes a thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. For MA cases, a redetermination is an eligibility review based on a reported change. A renewal is the full review of eligibility factors completed annually. The renewal month is 12 months from the date the most recent complete application was submitted. BAM 210 (October 2023), pp. 1-4. For MA cases, benefits stop at the end of the benefit period unless a renewal is completed, requested verifications are received and a new benefit period is certified. BAM 210, pp. 3-5. The Department will provide the client with timely notice of the negative action if the time limit is not met. BAM 210, p. 14. The Department will send a DHS-1606, Health Care Coverage Determination Notice, which details the information used to determine eligibility. BAM 210, p. 19-20.

At the hearing, the Department representative testified that because Petitioner failed to submit a completed redetermination/renewal form by the October 5, 2023, deadline, the Department was unable to review her continued MA and MSP eligibility, initiated the closure of her cases, and sent her a Health Care Coverage Determination Notice on November 17, 2023, advising her of the MA and MSP case closures effective December 1, 2023. Petitioner testified that she did not complete and return the redetermination/renewal form because she did not receive it. Upon review, it was established that the Department mailed the redetermination to a prior mailing address on file belonging to an authorized representative/attorney who had previously completed an assistance application on Petitioner's behalf. While there was some discussion on the record that Petitioner may have a legal guardian and previously, may have had the assistance of an attorney representative who completed an application for MA benefits on her behalf, there was no documentation presented that, at the time of the redetermination/renewal period and current hearing, Petitioner was still subject to a legal guardianship or that same attorney continued to have the authority to represent Petitioner. The Department representative acknowledged that on or around August 28, 2023, it received a completed FAP application from Petitioner that identified a more recent mailing address. It was unclear whether the FAP application also identified a

legal guardian or other authorized representative. The Department representative testified that the redetermination/renewal forms should have been sent to Petitioner's current mailing address, as she reported a change on the FAP application. Petitioner was advised that if she does have a legal guardian appointed by the probate court to assist with her affairs, including, administration of her public assistance cases/benefits through the Department, her legal guardian should contact the Department and update any addresses or forms needed for continued representation.

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 closed Petitioner's MA and MSP cases for a failure to return a redetermination.


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. Redetermine Petitioner's MA and MSP eligibility under the most beneficial categories for December 1, 2023, ongoing;
2. If eligible, provide MA and MSP coverage to Petitioner for any MA and MSP benefits he was entitled to receive but did not from December 1, 2023, ongoing, and
3. Notify Petitioner in writing of its decisions.

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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
MDHHS-Wayne-19-Hearings@michigan.gov

Interested Parties
BSC4
M Schaefer
EQAD

Via First Class Mail:

Petitioner
[REDACTED]
[REDACTED] MI [REDACTED]