



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: February 15, 2024
MOAHR Docket No.: 23-008748
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 7, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Oscar Brummitt, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) Program 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. 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).
2. As a condition for receiving the increased funding, § 6008 of the FFCRA required that MDHHS 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.

3. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
4. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
5. Beginning April 1, 2023, the CAA, 2023 required MDHHS to reevaluate almost all MA recipients' eligibility for ongoing MA.
6. In October, Petitioner and her husband moved to a new home.
7. On October 27, 2023, the Department received Petitioner's completed Redetermination on which she indicated that she had "additional income" and described it as "other".
8. On [REDACTED] 2023, Petitioner underwent surgery for a spinal fusion and was hospitalized until [REDACTED] 2023. After returning home, she was taking a lot of pain medication; however, her husband was still checking the mail.
9. On November 1, 2023 the Department issued a Verification Checklist (VCL) to Petitioner requesting proof of "unknown income" indicating that "[she] had told us that someone in your household has income, but [the Department did] not have enough information regarding the income." Proofs were due by November 13, 2023.
10. As of November 15, 2023, the Department had not received Petitioner's verification of income and the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner advising her that effective December 1, 2023, both her and her son were not eligible for MA benefits because she was not under 21, pregnant, or a caretaker of a minor child in the home, was not over 65, blind, or disabled.
11. After moving, Petitioner was experiencing difficulties with her mail as it was being put in other mailboxes and mixed up with others. Petitioner first realized that there was a problem once she received the HCCDN. She did not receive the VCL.
12. On November 29, 2023, the Department received Petitioner's request for hearing disputing the Department's closure of MA benefits for herself and her son.
13. At the hearing, the Department clarified that the actual reason for closure of Petitioner's and her son's MA benefits was because they had not received verification of income as requested.

APPLICABLE LAWS

Authority for the ALJ to conduct the hearing is provided under MCL 400.9 and 400.37; 42 USC 1396(3); 42 CFR 431.200 to 431.250.

MDHHS policies are contained in the Michigan Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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*.

CONCLUSIONS OF LAW

Starting April 1, 2023, ongoing MA eligibility must be renewed. For MA beneficiaries whose MA eligibility is based on their Modified Adjusted Gross Income (MAGI)-based income, MA must be renewed once every 12 months and no more frequently than once every 12 months. 42 CFR 435.916(a)(1). For MA beneficiaries whose MA eligibility is not based on their MAGI-based income, MA eligibility must be redetermined at least every 12 months. 42 CFR 435.916(b). Any renewal form or notice must be accessible to persons who are limited English proficient and persons with disabilities. 42 CFR 435.916(f)(2).

In conducting this renewal or redetermination, MDHHS must check available information and data sources to attempt to redetermine eligibility before contacting the beneficiaries. 42 CFR 435.916(a)(2) and (b), 435.948, and 435.949. Before concluding that an individual is ineligible for MA, MDHHS must evaluate the individual's eligibility for MA on all bases for MA coverage, including the Medicare Savings Programs. 42 CFR 435.916(f)(1).

MA Case Closure Due to Failure to Respond/Verify

In connection with Petitioner's MA redetermination, MDHHS closed Petitioner's MA case effective December 1, 2023 because Petitioner failed to verify income identified on her completed Redetermination.

Under 42 CFR 435.916(a)(2) and (b), and consistent with §§ 435.948, 435.949, and 435.956, as well as BAM 800 (April 2022), pp. 2-5, MDHHS can renew MA eligibility using electronic resources/databases available to it. If information provided to MDHHS by or on behalf of an MA applicant or recipient is reasonably compatible with information obtained by MDHHS through electronic data exchange services, MDHHS must determine or renew eligibility based on such information. 42 CFR 435.952(b); BAM 210 (October 2022), p. 1.

If the individual is not eligible for MA based on information retrieved from electronic database services or other reliable sources or if information needed by MDHHS to determine eligibility cannot be obtained electronically or if the information obtained electronically is not reasonably compatible with information provided by or on behalf of

the individual, then MDHHS may not deny or terminate eligibility or reduce benefits for the individual unless it first seeks additional information from the individual. 42 CFR 435.952(c) and (d). MDHHS may request from the Medicaid applicant or recipient only information that has changed or is missing. BAM 210, p. 2. Medicaid recipients who are eligible based on MAGI methodologies must have a minimum of 30 days to return their pre-populated renewal form and any requested information. Non-MAGI Medicaid recipients must be provided with a reasonable period of time to return their renewal form and any required documentation. Renewal forms and notices must be accessible to persons who have limited English proficiency (LEP) and persons with disabilities. 42 CFR 435.905(b).

MDHHS must notify MA recipients of the basis of an eligibility determination and notify them that they must inform the state if any of the information used to determine their eligibility is not accurate. 42 CFR 916(a)(2). If MAGI-based MA is terminated at renewal for failure to return the renewal form or other needed and requested documentation, MDHHS must reconsider the individual's eligibility without requiring a new application if the renewal form and/or requested information is returned within 90 days after the date of termination. 42 CFR 435.916(a)(3)(iii) and (b). **States may, but are not required to, provide a reconsideration period for non-MAGI beneficiaries.**

In this case, MDHHS closed Petitioner's MA case because Petitioner failed to verify income. In MA cases, benefits stop at the end of the benefit period or as in this case because of the COVID-related regulations, after the assigned redetermination period. BAM 210 (October 2023), p. 4. If the renewal is not completed, the benefits end. *Id.* To complete the redetermination process, verifications must be received and are due ten calendar days from the date that they were requested. BAM 210, p. 17. In the common law, the proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 173 NW2d 225 688 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 241 NW2d 71 (1976); *Long-Bell Lumber Co v Nynam*, 108 NW 1019 (1906).

The Department mailed a VCL to Petitioner which properly listed her address of record. Petitioner credibly rebutted the presumption of receipt indicating that she had not received the VCL because she had just recently moved and only discovered problems with her mail going to other boxes after she received the HCCDN. Because Petitioner did not receive the VCL, she could not comply with policy to ensure that the Department received the completed form. Therefore, the Department's closure of Petitioner's MA benefits is reversed.

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 and her son's MA eligibility effective December 1, 2023;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/cc



Amanda M. T. Marler
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 :

Interested Parties

MDHHS-Oakland-DistrictII-Hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

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