



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 21, 2024
MOAHR Docket No.: 23-009487
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 14, 2024, from Detroit, Michigan. Petitioner appeared for the hearing with [REDACTED] who served as her Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Juanita Munoz, 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 previously approved for MA under the Group 2 Aged Blind and Disabled (G2S) category with a monthly deductible.
2. On or around November 16, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice), advising her that effective July 1, 2023, she is eligible for limited coverage MA under the Plan First (PF) category. (Exhibit A, pp. 10-12)
3. On or around December 7, 2023, Petitioner requested a hearing disputing the Department's actions with respect to 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 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.

Additionally, asset eligibility is required for MA coverage under SSI-related MA categories, which are categories providing MA coverage to individuals who are aged, blind or disabled. BEM 400 (April 2022), p. 1-2, 6; BEM 105 (January 2022), p. 1. Checking and savings accounts are assets. The Department will consider the value of cash assets (which includes money in checking, savings, and Direct Express accounts) in determining a client's asset eligibility for MA. BEM 400, pp. 14-16. An asset must be available to be countable. Available means that someone in the asset group has the legal right to use dispose of the asset. For jointly owned assets that have more than one owner, an asset is unavailable if all the following are true, and an owner **cannot** sell or spend his share of an asset: without another owner's consent, the other owner is not in the asset group, and the other owner refuses consent. BEM 400, pp. 12.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2023), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

For MA cases, clients are given 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, pp. 7-9. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, pp. 7-9. Verifications are considered to be timely if received by the date they are due. BAM 130, pp. 7-9. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has lapsed. BAM 130, pp. 8-9.

At the hearing, the Department representative testified that Petitioner's MA coverage under the G2S category was closed effective December 1, 2023, because she failed to verify requested information. However, the Department conceded that it did not send Petitioner any notice advising of a case closure. Additionally, it was unclear exactly what verifications were requested and when they were due, as the Department representative presented conflicting information during the hearing. The Department presented a verification checklist dated December 14, 2023, requesting information by December 26, 2023; however, based on the Department's testimony, Petitioner's MA case had been closed effective December 1, 2023. During the hearing, the Department representative also testified that back in June 2022, the Department sent Petitioner a verification checklist, instructing her to return information needed to the Department. However, it was unclear whether this VCL was sent for Petitioner's Food Assistance Program (FAP) or MA cases, as it was not presented for review. Although the Department representative testified that Petitioner's MA case was reinstated and eligibility was pending the submission of additional verifications, it was unknown whether this action was taken in response to Petitioner's request for hearing or in connection with a new MA application submitted on December 18, 2023.

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 because of the conflicting information provided by the Department during the hearing, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it terminated Petitioner's MA coverage under the G2S effective December 1, 2023.


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 eligibility under the most beneficial category for December 1, 2023, ongoing;
2. If eligible, provide MA coverage to Petitioner for any MA benefits she was entitled to receive but did not from December 1, 2023, ongoing, and
3. Notify Petitioner and her AHR in writing of its decision.

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
Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
MDHHS-Wayne-41-Hearings@michigan.gov

Interested Parties
BSC4
M Schaefer
EQAD

Via First Class Mail:

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED] IL [REDACTED]

Petitioner

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