



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
DIRECTOR



Date Mailed: April 2, 2024
MOAHR Docket Nos.: 24-001518 and 24-001520
Agency Nos.: [REDACTED] and [REDACTED]
Petitioners: [REDACTED] and [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 (ALJ) 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 at 2:50 PM on March 21, 2024, from Detroit, Michigan. Petitioner appeared for the hearing with her husband [REDACTED]. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

As a preliminary matter, Petitioner's husband, [REDACTED] was scheduled for a hearing to be held before the undersigned ALJ on March 21, 2024, at 3:30 PM under MOAHR Docket No. 24-001520. At the consent of the parties and in the interest of efficiency, because both matters involve similar actions, Mr. and Mrs. [REDACTED] requested that their hearings be consolidated. Good cause was established to consolidate MOAHR Docket No. 24-001518 and 24-001520 for hearing purposes. Because the cases involve similar issues, one Hearing Decision will be issued.

ISSUE

Did the Department properly close Petitioners' 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. [REDACTED] was an ongoing recipient of MA benefits, specifically, Medicare Savings Program (MSP) benefits.
2. [REDACTED] was an ongoing recipient of MA benefits under the Group 2 Aged Blind Disabled (G2S) category and MSP benefits.

3. Although they resided in the same household and were married, Mr. and Mrs. [REDACTED] each had separate MA cases with the Department. Mr. [REDACTED] was assigned Case Number [REDACTED] and Mrs. [REDACTED] was assigned Case Number [REDACTED].
4. 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).
5. 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.
6. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
7. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
8. Beginning April 1, 2023, the CAA, 2023 required the Department to reevaluate almost all MA recipients' eligibility for ongoing MA.
9. In connection with a redetermination, Petitioners' eligibility to receive MA/MSP benefits was reviewed.
10. On or around November 4, 2023, the Department sent Mrs. [REDACTED] a redetermination/renewal for her MSP case that was to be completed and returned by December 4, 2023. (Exhibit A, pp. 8-14)
11. On or around November 4, 2023, the Department sent Mr. [REDACTED] a redetermination/renewal for his MA/MSP case that was to be completed and returned by December 4, 2023. (Exhibit B, pp. 6-14)
12. The Department asserted that Petitioners failed to complete and return the redeterminations/renewal for their MA cases.
13. On or around January 19, 2024, the Department sent Mr. [REDACTED] a Health Care Coverage Determination Notice advising him that effective February 1, 2024, his MA cases would be closed because he failed to return the redetermination. (Exhibit B, pp. 17-19)
14. On or around January 19, 2024, the Department sent Mrs. [REDACTED] a Health Care Coverage Determination Notice advising her that effective February 1, 2024, her MSP case would be closed because she failed to return the redetermination. (Exhibit A, pp. 21-23)

15. On or around January 31, 2024, Mr. and Mrs. [REDACTED] requested a hearing disputing the closure of their MA/MSP cases. (Exhibit A, p. 3; Exhibit B, p. 3)
16. Mrs. [REDACTED] hearing was assigned MOAHR Docket No. 24-001518, Agency Case No. [REDACTED] and scheduled to be heard on March 21, 2024, at 2:50 PM.
17. Mr. [REDACTED] hearing was assigned MOAHR Docket No. 24-001520, Agency Case No. [REDACTED] and scheduled to be heard on March 21, 2024, at 3:30 PM.
18. The matters were consolidated for hearing and Hearing Decision purposes with the consent of the parties.

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.

In this case, Petitioners were previously approved for MA under the G2S and MSP categories, which are SS-related MA programs not based on Modified Adjusted Gross Income (MAGI). BEM 105 (October 2023), p.1.

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).

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).

Additionally, policy provides that 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 Petitioners MA and/or MSP eligibility was due for review. The Department testified that because Petitioners failed to submit a completed redetermination/renewal form by the December 4, 2023, deadline, the Department was unable to review their continued MA eligibility and initiated the closure of their MA/MSP cases by sending the Health Care Coverage Determination Notice on January 19, 2024, advising them each of the MA case closure effective February 1, 2024. Petitioners testified that they received the redetermination and completed the forms. Petitioners credibly testified that on December 1, 2023, they placed the redetermination forms in the no postage necessary envelopes provided by the Department with the forms and put the envelopes with the completed redetermination in their mailbox to be mailed by the mail carrier. Petitioners testified that they do not have a car and thus, were unable to drop off the forms in person to the Department or to take the forms to the Post Office for mailing. Petitioners testified as to the address the redetermination forms were mailed, which was confirmed to be the correct mailing address for the Department. Petitioners credibly testified that they kept a copy of the redetermination forms as well as the verifications that were submitted with the redetermination. Petitioners presented these documents for review at the hearing. (Exhibit 1). Petitioners' testimony as to the December 1, 2023, submission of the redeterminations was credible.

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 Petitioners' MA and/or MSP cases effective February 1, 2024.

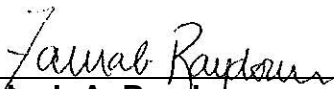
DECISION AND ORDER

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. Reinstate the MA and/or MSP cases for each Petitioner and redetermine their MA/MSP eligibility under the most beneficial category for February 1, 2024, ongoing;
2. If eligible, provide MA and/or MSP coverage to each Petitioner for any MA and/or MSP benefits they were entitled to receive but did not from February 1, 2024, ongoing, and
3. Notify Petitioners 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
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
MDHHS-Wayne-17-hearings@michigan.gov

Interested Parties

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

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

Petitioner

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