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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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████████████████████, MI ██████████

Date Mailed: April 28, 2022
MOAHR Docket No.: 22-000281
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 April 4, 2022 via teleconference. Petitioner appeared and represented himself. Brenda Drewnicki, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly process Petitioner's application for Medicaid (MA) 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. On ██████████ 2022, Petitioner submitted a MA application on behalf of himself and his daughter (Minor Child) (Exhibit A, p. 1).
2. On January 18, 2022, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that he was eligible for Healthy Michigan Plan (HMP) MA, effective January 1, 2022 ongoing (Exhibit A, p. 7). The Notice also indicated that Minor Child was not eligible because she was active on another case (Exhibit A, p. 7).
3. On ██████████ 2022, Petitioner filed a Request for Hearing challenging the denial of his application for MA benefits on behalf of Minor Child.

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 Medicaid (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. MDHHS administers 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 approved Petitioner for MA coverage but denied Petitioner's application for MA on behalf of Minor Child because it indicated that Minor Child was already enrolled in MA on another case. Petitioner disputed this action, stating that he had full custody of Minor Child and that he was unaware of any other MA coverage.

The MA program is comprised of several sub-programs or categories. BEM 105, p. 1. To receive MA under an 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.* MA group composition depends on whether the client qualifies for an SSI-related category or a MAGI-related category. See *generally* BEM 211 (July 2019).

The size of the MA household is determined by the principles of tax dependency in most cases. BEM 211, p. 1. The household of a tax filer, who is not claimed as a dependent, consists of the individual, the individual's spouse and tax dependents. BEM 211, p. 2. For a MAGI-related category such as HMP, group composition follows tax filer and tax dependent rules. *Id.* For SSI-related MA, Group 2 Pregnant Women, Group 2 Persons Under Age 21, and Group 2 Caretaker Relative, only persons living with one another can be in the same group. BEM 211, p. 5. Living with means sharing a home where family members usually sleep, except for temporary absences. BEM 211, p. 6. For all Group 2 categories, when a child lives with both parents who do not live together, MDHHS is required to determine the primary caretaker. BEM 211, p. 5. The primary caretaker is the parent who is primarily responsible for the child's daily care and supervision in the home where the child sleeps more than half the day of the month, when averaged over a 12-month period. *Id.*

In this case, MDHHS approved Petitioner for HMP MA but denied Minor Child because she was active under another MA case. Petitioner testified that he was the biological

father and custodial parent of Minor Child. He also testified that he had sole physical custody of Minor Child and submitted a document titled Minor Child Custody Agreement (Custody Agreement), which is a contract signed by Petitioner and Minor Child's mother (Exhibit 1, pp. 1-3). The Custody Agreement states that the parties agree to joint legal custody of Minor Child, and that Petitioner is the primary residential parent and retains sole physical custody of the minor child at all times (Exhibit 1, p. 1). Petitioner further testified that he claims Minor Child as a tax dependent.

MDHHS is required to request verification of the accuracy of client's written or verbal statements when required by policy or information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130 (January 2022), p. 1. The questionable information might be from a client or third party. *Id.* Verification is usually required at application or redetermination. *Id.* To request verification, MDHHS must send the client a Verification Checklist (VCL), which tells the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. For MA, MDHHS must allow the client ten calendar days to provide the verification requested. *Id.*, p. 8.

In this case, Petitioner reported information regarding his household size and his status as a caretaker of a minor child when he applied for MA benefits on behalf of himself and Minor Child. MDHHS denied MA benefits for Minor Child based on contradictory information that it had from a third party regarding where Minor Child lived and who her primary caretaker was. Before MDHHS denied Minor Child's MA application, it should have sought verification to clarify the inconsistent information. No evidence was introduced to show that MDHHS attempted to resolve the discrepancy by contacting Petitioner or sending a VCL or that Petitioner was given a chance to resolve the discrepancy.

In addition, Petitioner's household size and status as the primary caretaker of a dependent minor child may affect his MA eligibility status. As described above, there are several sub-categories of MA coverage that a client may be eligible for, depending on the client's particular circumstances. Clients may qualify for more than one MA category and federal law gives them the right to choose the most beneficial category. BEM 105, p. 2. Although Petitioner reported that he was the caretaker of a minor child, no evidence was presented that he was considered for any other MA categories, such as Group 2 Caretaker Relative.

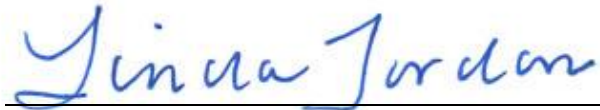
Accordingly, the Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS did not act in accordance with Department policy when it processed Petitioner's MA application.

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. Reregister Petitioner's [REDACTED], 2022 MA application;
2. Redetermine Petitioner's and Minor Child's eligibility status for MA benefits, requesting additional verifications if necessary;
3. If Petitioner and Minor Child are eligible for MA, provide them with coverage for each month they are eligible to receive from the date of application; and
4. Notify Petitioner in writing of its decision.



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

Email Recipients:

MDHHS-Macomb-12-Hearings
C. George
EQADHearings
BSC4
MOAHR

**First Class Mail-Recipient:
Petitioner:**

_____, MI _____