



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: September 21, 2022
MOAHR Docket No.: 22-003714
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 September 19, 2022. The Petitioner appeared and represented herself. A representative from the Department of Health and Human Services (MDHHS) did not appear for the hearing and the hearing was held in the absence of the Department.

Petitioner agreed to the admission of the 7-page hearing packet submitted by MDHHS prior to the hearing. These documents were admitted into evidence as Exhibit A.

ISSUE

Did MDHHS properly close Petitioner's Medical Assistance (MA or Medicaid) 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.
2. On August 1, 2022, MDHHS issued a Verification Checklist to Petitioner, requesting that she submit bank account information by August 11, 2022 (Exhibit A, pp. 6-7).
3. MDHHS notified Petitioner that her MA case was scheduled to close August 23, 2022, for failure to timely submitted the requested verifications of bank account information (Exhibit A, p.1).

4. On August 23, 2022, MDHHS received Petitioner's hearing request regarding the closure of her MA case (Exhibit A, pp. 3-4).

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.

A MDHHS representative did not participate in the hearing. The hearing summary prepared by MDHHS was read into the record, stating that:

The Department of Health and Human Services received a Hearing Request on August 23, 2022, from Ms. [REDACTED] regarding the Medical Assistance (MA) Program. Ms. [REDACTED] requested the Hearing because her MA was scheduled to close on August 23, 2022, for failing to submit verifications (Checking and Savings Account Bank Statements) timely on August 22, 2022. Ms. [REDACTED] was first notified on August 1, 2022, requesting needed verifications with a due date of August 11, 2022. Ms. [REDACTED] failed to submit verifications on August 11, 2022, and an extension was granted with a new due date of August 22, 2022. Ms. [REDACTED]'s MA was still in Pending Status when she requested to have it remain in that status until the Hearing. Ms. [REDACTED]'s verifications, to date, still has not been received by the Department of Health and Human Services. Ms. [REDACTED]'s MA is still scheduled to close for failure to submit requested verifications.

In this case, Petitioner requested a hearing regarding the closure of her MA case. At this time, MDHHS is prohibited from terminating MA coverage due to the COVID-19 Public Health Emergency. ESA Memo 2020-12 provides that effective March 20, 2020, MA cases must not be closed unless the client requests the closure, dies, or moves out of state. ESA Memo 2020-12 (March 2020), p. 1. Since MDHHS did not participate in the hearing, the current status of Petitioner's MA case is unclear. Petitioner testified that her home healthcare aid stopped coming to her home because she no longer was receiving payments from Medicaid. This supports the Hearing Summary statement that Petitioner's MA case was closed, contrary to current policy under the Public Health Emergency.

Additionally, the Hearing Summary states that Petitioner's MA case would close for failure to return requested verifications. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2022), p. 1. To request verification of information, MDHHS must inform the client of what verification is required, how to obtain it, and the due date. BAM 130, p. 3. With respect to MA cases, clients are given 10 calendar days to provide the verifications requested by MDHHS. Verifications are considered to be timely if received by the date they are due. MDHHS will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 7-8. In this case, Petitioner credibly testified that she provided her bank account information, including documentation of closed accounts, timely to MDHHS. Since MDHHS did not participate in the hearing, it is unclear why they requested verification of these accounts at this time or what, if any, verification they received from Petitioner.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA case.

DECISION AND ORDER

Accordingly, MDHHS' 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 Petitioner's MA case effective August 23, 2022;
2. Evaluate Petitioner's MA case to ensure she has the most beneficial coverage;
3. Notify Petitioner of its decision in writing.

DN/mp



Danielle Nuccio

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
MDHHS-Wayne-15-Greydale-Hearings
EQAD Hearings
C. George
MOAHR
BSC4

Via-First Class Mail :

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