



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: October 30, 2023
MOAHR Docket No.: 23-005401
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 October 23, 2023. Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Raven Douthard, Hearings Facilitator.

At the conclusion of the hearing, and well after the record was closed, MDHHS submitted an additional document as a proposed exhibit. This document was not requested by the undersigned or admitted as an exhibit during the hearing. Only Exhibit A, which was properly admitted during the hearing, remains part of the formal record.

ISSUE

Did MDHHS properly change Petitioner's Medicaid (MA) coverage following her redetermination of 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. Petitioner was an ongoing recipient of MA for a group size of one.
2. In September 2020, Petitioner reported to MDHHS that her employment at [REDACTED] ([REDACTED]) (Employer 1) had ended, and she now works for the [REDACTED] (Employer 2).

3. 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).
4. 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.
5. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
6. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminates the continuous coverage requirement effective March 31, 2023.
7. Beginning April 1, 2023, the CAA, 2023 required MDHHS to reevaluate almost all MA recipients' eligibility for ongoing MA.
8. On June 5, 2023, MDHHS issued a redetermination of MA benefits form to Petitioner. The completed redetermination was due back to MDHHS by July 5, 2023 (Exhibit A, pp. 8-16).
9. Petitioner timely submitted the MA redetermination to MDHHS.
10. On August 15, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice notifying Petitioner that, effective September 1, 2023, Petitioner's MA case was changed to MA with a \$2,237.00 deductible, based upon her income (Exhibit A, pp. 17-21).
11. On August 30, 2023, MDHHS received Petitioner's hearing request disputing the MA action on her case (Exhibit A, pp. 3-7).

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.

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). Benefits stop at the end of the benefit period unless a renewal is completed, and a new benefit period is certified. BAM 210 (October 2022), p. 4.

Petitioner disputes the change in her MA coverage to MA with a \$2,234.00 deductible or spenddown.

MDHHS testified that they considered Petitioner's income from both Employer 1 and Employer 2 when determining Petitioner's MA coverage. MDHHS did not present Petitioner's completed redetermination for review but stated that they relied upon both employers being reported on the redetermination form in making their decision. Petitioner credibly testified that she reported in September 2020 that her employment with Employer 1 had ended and employment with Employer 2 had begun. It is noted that in September 2020, due to the COVID-19 pandemic, the MDHHS offices were not fully staffed, and communication was difficult. It is highly likely that due to the pandemic, Petitioner's MA case was not updated as required. Petitioner credibly testified that she did not realize that she was able to cross out pre-filled information MDHHS includes on her redetermination, so she hand-wrote on the redetermination form that her employment had changed and she was not employed at Employer 1, only at Employer 2. Given Petitioner's credible testimony, and absent any evidence to the contrary, MDHHS did not update Petitioner's income and employment as required when timely reported by Petitioner. Thus, MDHHS used inaccurate information to determine Petitioner's MA coverage. It is also noted that MDHHS failed to present any documentation in support of how Petitioner's deductible or spenddown was calculated to determine whether they acted in accordance with policy in determining that Petitioner has a spenddown and the amount thereof. Therefore, MDHHS did not act in accordance with policy in determining Petitioner's MA coverage.

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 failed to update Petitioner's income information and determined that Petitioner qualified for MA coverage with a spenddown.

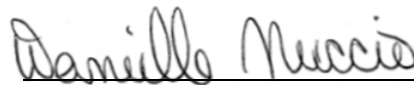
DECISION AND ORDER

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. Reprocess Petitioner's July 2023 MA redetermination, taking into account the update in Petitioner's employment and income.
2. Seek additional verification from Petitioner only if required by policy or previously submitted verification is unclear or incomplete;
3. Redetermine Petitioner's MA coverage from August 1, 2023 ongoing;
4. If Petitioner is eligible for MA benefits, provide coverage to Petitioner for any MA she was eligible to receive but did not from August 1, 2023 ongoing;
5. 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 :

Interested Partied
MDHHS-Wayne-18-Hearings
EQAD Hearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

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