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STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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Date Mailed: February 28, 2024
MOAHR Docket No.: 23-009418
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 22, 2024. The Petitioner appeared for the hearing and was represented by his Authorized Hearings Representative (AHR) ██████████. His mother ██████████ and his father ██████████ appeared as witnesses. The Department of Health and Human Services (Department) was represented by Raven Douthard, Hearings Facilitator.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) Program eligibility?

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 MA-SSI recipient.
2. As of December 2021, Petitioner stopped receiving Supplemental Security Income (SSI) benefits and started receiving Retirement Survivors Disability Insurance (RSDI) benefits in the amount of ██████████.
3. As of December 2022, Petitioner's RSDI Benefit increased to ██████████.

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 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.
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 MDHHS to reevaluate almost all MA recipients' eligibility for ongoing MA.
9. The Department did not issue any applications or redeterminations to Petitioner to reevaluate Petitioner's MA eligibility.
10. On November 17, 2023, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that his MA benefits were closing effective December 1, 2023 because he had not returned the Redetermination. At the hearing, the Department clarified that the explanation provided on the HCCDN was incorrect and that the actual reason for the closure of Petitioner's MA benefits was that his SSI benefits had terminated.
11. On December 1, 2023, the Department received Petitioner's request for hearing through his Authorized Hearings Representative (AHR) disputing the closure of his MA-SSI benefits.
12. On or about December 7, 2023, the Department received a new application for Petitioner for MA benefits and a Social Security Administration (SSA) letter showing that Petitioner was receiving Retirement Survivors Disability Insurance (RSDI) benefits in the amount of [REDACTED] per month.
13. On December 7, 2023, the Department issued a new HCCDN to Petitioner informing Petitioner that he was eligible for Plan First (PF). As of the hearing date, Petitioner's eligibility was still pending for Disabled Adult Child (DAC) benefits based on an asset detection due on February 26, 2024. No HCCDN had been issued regarding Petitioner's DAC eligibility.

APPLICABLE LAWS

Authority for the ALJ to conduct the hearing is provided under MCL 400.9 and 400.37; 42 USC 1396(3); 42 CFR 431.200 to 431.250.

MDHHS policies are contained in the Michigan Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396 *et seq*; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, PL 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, PL 111-152; 42 CFR 430.10 to 42 CFR 430.25; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq*.

CONCLUSIONS OF LAW

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).

In this case, the Department issued a HCCDN to Petitioner indicating he was ineligible for benefits but provided an incorrect explanation on the notice. According to the Department at the hearing, the actual reason for Petitioner's MA closure was because he was no longer receiving SSI benefits and therefore no longer eligible for MA-SSI. Ongoing MA-SSI eligibility begins the first day of the month of SSI entitlement. BEM 150 (July 2021), p. 1. When SSI benefits stop, the Department evaluates the reason for closure and then either closes the MA benefit for things like death or moving out of state or transfers the MA-SSI to MA-SSI Terminated (MA-SSIT) and a redetermination date is set for the second month after transfer to allow for an *ex parte* review. BEM 150, p. 6. The review should include consideration of all MA categories. *Id.* When Bridges is updated, the Department is required to send a DCH-1426 (an MA application) and a redetermination/*ex parte* packet to the client and authorized representative. *Id.*

Because the Department failed to send an application, redetermination, or redetermination packet to Petitioner before the closure of his MA-SSIT benefit, the Department did not act in accordance with Department policy.

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 Petitioner's MA-SSIT benefit.

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 benefit effective December 1, 2023;
2. If otherwise eligible, issue supplements to Petitioner or on his behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/cc



Amanda M. T. Marler
Administrative Law Judge

