



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR



Date Mailed: September 17, 2024
MOAHR Docket No.: 24-007423
Agency No.: [REDACTED]
Petitioner: [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 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 August 22, 2024, from Detroit, Michigan. Petitioner appeared for the hearing with her son/Authorized Hearing Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Nicole Taylor, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (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. Petitioner was previously an ongoing recipient of MA benefits Group 2 Aged, Blind, Disabled (G2S) subject to a monthly deductible.
2. 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).
3. 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.

4. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
5. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
6. Beginning April 1, 2023, the CAA, 2023 required the Department to reevaluate almost all MA recipients' eligibility for ongoing MA.
7. In connection with a redetermination, Petitioner's eligibility for MA benefits was reviewed. The Department asserted that in lieu of a redetermination, Petitioner submitted an assistance application to the Department on March 5, 2024, that was processed.
8. The Department representative testified that on or around March 5, 2024, the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit verification of her medical expenses by March 15, 2024. The VCL was not presented for review during the hearing.
9. The Department representative asserted that Petitioner failed to submit verification of her medical expenses connection with the VCL.
10. The Department representative testified that on or around April 19, 2024, the Department issued an eligibility notice advising Petitioner that effective April 30, 2024, her MA case would be closed.
 - a. The Department asserted that the case closure was due to a failure to return verification of medical expenses. However, the eligibility notice was not presented for review during the hearing.
11. On or around May 24, 2024, Petitioner submitted an application requesting MA benefits.
12. The Department asserted that Petitioner was approved for MA benefits under the Plan First category; however, her eligibility for G2S was not determined as the application was not logged in properly.
13. On or around July 1, 2024, a hearing was requested on Petitioner's behalf, disputing the Department's actions with respect to the MA program.

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.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (October 2023), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105, p. 2; 42 CFR 435.404.

In this case, the hearing was requested to dispute the Department's actions with respect to Petitioner's MA benefits. At the hearing, the Department representative testified that Petitioner submitted an application on or around March 5, 2024, that was processed in lieu of the redetermination to review Petitioner's continued eligibility for MA benefits.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2023), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

For MA cases, clients are given 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, pp. 7-9. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, pp. 7-9. Verifications are considered to be timely if received by the date they are due. BAM 130, pp. 7-9. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has lapsed. BAM 130, pp. 8-9.

The Department representative testified that on or around March 5, 2024, a VCL was issued to Petitioner, instructing her to submit verification of her medical expenses by March 15, 2024. The Department representative asserted that Petitioner failed to submit verification of her medical expenses in connection with the VCL and as a result, the

Department initiated the closure of her MA case effective April 30, 2024. The Department asserted that the case closure was due to a failure to return verification of medical expenses. However, upon review of Department policy, although medical expenses can be used to calculate the amount of a client's deductible, because medical expenses are not required to determine a client's ongoing eligibility for MA and whether a client will be eligible for SSI-related MA benefits, a failure to submit verification of medical expenses is not a valid reason for a case closure.

Furthermore, the Department representative could not sufficiently explain why Petitioner's eligibility for SSI-related MA was not determined in connection with the May 24, 2024, application that was submitted. While Petitioner was approved for Plan First, Petitioner is entitled to MA under the most beneficial category. Therefore, the Department will be ordered to redetermine Petitioner's MA eligibility from May 1, 2024, ongoing.

At the hearing, Petitioner's AHR raised additional concerns about her chore provider not being paid for services and with respect to the adult home help case. Petitioner was advised that any dispute concerning chore provider payment needed to be addressed with the adult medical services district within the Department, as Petitioner would have received some type of eligibility notice regarding her chore provider case. The Department representative explained that because Petitioner's MA case was previously subject to a monthly deductible, Petitioner is required to submit verification showing that she incurred medical expenses that were sufficient to meet or exceed her deductible each month or that the criteria for personal care option was met.

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 determined Petitioner's MA eligibility for May 1, 2024, ongoing.


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 eligibility under the most beneficial category for May 1, 2024, ongoing;
2. If eligible, provide MA coverage to Petitioner for any MA benefits that she was entitled to receive but did not, if any, from May 1, 2024, ongoing, and
3. Notify Petitioner 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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

MDHHS-Wayne-15-Greydale-Hearings@michigan.gov

Interested Parties

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED] MI [REDACTED]