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GOVERNOR

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

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DIRECTOR

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Date Mailed: September 6, 2024
MOAHR Docket No.: 24-007569
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 August 7, 2024, via teleconference. Petitioner appeared and represented herself. Petitioner's father, ██████████, appeared as a witness for Petitioner. Avery Smith, Assistance Payments Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-64.

ISSUE

Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA) coverage?

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 coverage.
2. On June 28, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that she was not eligible for MA, effective July 1, 2024 ongoing (Exhibit A, p. 59). The notice indicated that she was over the income limit for Healthy Michigan Plan (HMP) MA and not eligible for Freedom to Work (FTW) MA because there was not an active DDS determination and she was not receiving income from Social Security (Exhibit A, p. 58).
3. On June 24, 2024, Petitioner submitted a hearing request (Exhibit A, pp. 3-5).

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).

Medicaid (MA) 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 pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2024), p. 1.

In this case, MDHHS terminated Petitioner's MA coverage because she was over the income limit for Healthy Michigan Plan (HMP) MA. Petitioner presented testimony that she was disabled and that she should be eligible for MA based on her disability.

MA includes several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (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.* The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.* This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.* Persons may qualify under more than one MA category. BEM 124 (July 2023), p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

Here, Petitioner presented testimony that she suffered from a developmental disability and her witness believed that she was previously receiving MA under the Freedom to Work (FTW) category. FTW is available to a client with disabilities age 16 through 64 who has earned income. BEM 174 (June 2020), p. 1. The client must be disabled according to the disability standards of the Social Security Administration (SSA), except employment, earnings, and substantial gainful activity (SGA) cannot be considered in the disability determination. *Id.* It is unclear from the record whether SSA determined Petitioner to be disabled or whether Petitioner had a pending Social Security claim. If

Petitioner did not have a pending claim with SSA, it is unclear whether her case was referred to the Disability Determination Services (DDS) for a decision regarding her disability status prior to terminating her MA coverage.

Whether Petitioner meets the definition of disabled for the purposes of SSI-related MA categories, such as FTW, was unclear from the record. MDHHS requests verification of a client's written or verbal statements when required by policy or when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (May 2024), 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.*, pp. 3-4. Before determining eligibility, MDHHS must give the client a reasonable opportunity to resolve any discrepancy between the client's statements and information from another source. *Id.*, p. 9. MDHHS failed to demonstrate that it properly verified Petitioner's disability status in this case.

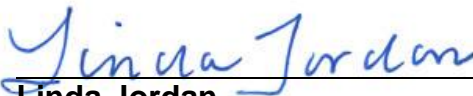
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it terminated Petitioner's MA coverage.

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. Redetermine Petitioner's eligibility for all MA categories, requesting additional verification as necessary, beginning July 1, 2024 ongoing;
2. Provide Petitioner with the most beneficial category of MA coverage that she is eligible to receive, from July 1, 2024 ongoing; and
3. Notify Petitioner of its decision(s) in writing.

LJ/pt



Linda Jordan
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
Tracey Jones
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail:

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