

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: February 4, 2020
MOAHR Docket No.: 19-012699
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

DECISION AND ORDER

Upon the Petitioner's December 10, 2019, request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on February 4, 2020, from Lansing, Michigan.

Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Emily Piggott, Appeals Review Officer, appear as its representative. The Department had two witnesses, Juwanne Griggs, Adult Services Specialist, and Julie Willis, Supervisor. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 20-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly terminate Petitioner's Home Help Services (HHS)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Petitioner received HHS from the Department until December 31, 2019.
2. Effective January 1, 2020, Petitioner was enrolled in an integrated care organization (ICO) through MI Health Link.

3. When Petitioner became enrolled in the ICO, the Department terminated Petitioner's HHS because Petitioner was not eligible for HHS from the Department while enrolled in an ICO.
4. The Department did not send an advance notice Petitioner to notify her that her HHS were going to be terminated. The Department orally advised Petitioner and instructed Petitioner to disenroll from her ICO if she wanted to continue to receive HHS from the Department.
5. As of the date of the hearing, Petitioner was still enrolled in an ICO.

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services (HHS) are provided to enable functionally limited individuals to live independently and receive care in the least restrictive, preferred settings. These activities must be certified by a health professional and may be provided by individuals or by private or public agencies.

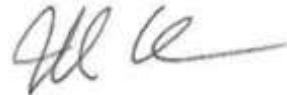
When HHS are terminated, suspended, or reduced for any reason, the Department must send advance notice to the client. ASM 170 (February 1, 2019), p. 2. The notice must advise the client of the negative action and explain the reason for the action. *Id.* Clients have the option to request a hearing before the effective date of the negative action. *Id.* at 3. When a hearing is requested before the effective date of the negative action, payments continue until a hearing decision has been made. *Id.*

In this case, the Department did not send Petitioner advance notice as required. The Department received notice that Petitioner enrolled in MI Health Link, so the Department closed Petitioner's HHS case. However, the Department did not send advance notice of the closure to Petitioner. Since the Department did not send Petitioner advance notice as required, the Department's action must be reversed. If the Department wants to close Petitioner's HHS, the Department must provide advance notice as required by policy.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department did not properly terminate Petitioner's HHS.

IT IS ORDERED THAT the Department's decision is **REVERSED**. The Department shall begin to implement this decision within 10 days.



JK/dh

Jeffrey Kemm
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

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 30763
Lansing, Michigan 48909-8139

DHHS -Dept Contact

Michelle Martin
Capitol Commons
6th Floor
Lansing, MI 48909

DHHS-Location Contact

Sherry Reid
Oakman Adult Services
3040 W. Grand Blvd., Suite L450
Detroit, MI 48202

DHHS Department Rep.

M. Carrier
Appeals Section
PO Box 30807
Lansing, MI 48933

Petitioner

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

Agency Representative

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