

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: April 10, 2020
MOAHR Docket No.: 20-000176
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

DECISION AND ORDER

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 *et seq*; 42 CFR 438.400 *et seq*; and Mich Admin Code, R 792.11002.

After due notice, a hearing was held on February 26, 2020. [REDACTED], the Petitioner, appeared on his own behalf. [REDACTED], Caregiver, appeared as a witness for Petitioner. Theresa Root, Appeals Review Officer, represented the Department of Health and Human Services (Department). Darlisha Vincent, Adult Services Worker (ASW), appeared as a witness for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-21.

ISSUE

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

FINDINGS OF FACT

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

1. The Department received a referral for Petitioner for the HHS program on May 24, 2019. (Exhibit A, p. 8)
2. An assessment was completed and it was determined that Petitioner was potentially eligible for 52 hours and 40 minutes of HHS per month with a total care cost of \$ [REDACTED]. (Exhibit A, pp. 10-19; ASW Testimony)

3. Petitioner's Medicaid status has had a monthly deductible, or spend-down since at least March 2019. The amount of the spend down has varied between \$ [REDACTED] and \$ [REDACTED]. (Exhibit A, p. 8)
4. On November 18, 2019, the Department issued an Advance Negative Action Notice to Petitioner stating the HHS case would be terminated effective December 2, 2019, because he has a Medicaid spend-down that has not been met since the case opened. (Exhibit A, p. 5)
5. Department records indicate Petitioner's spend-down was only met (scope of 2F) for the months of October 2019 and November 2019. That eligibility determination was made on January 16, 2020. (Exhibit A, pp. 8-9)
6. The Michigan Office of Administrative Hearings and Rules received Petitioner's hearing request on January 17, 2020. (Exhibit A, p. 4)
7. The Department issued payment for HHS services for October 2019 and November 2019. (Exhibit A, p. 10; ASW Testimony)

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.

The Adult Services Manual (ASM) addresses eligibility for Home Help Services:

Requirements

Home help eligibility requirements include **all** of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment indicating a functional limitation of level 3 or greater for at least one activity of daily living (ADL).
- Appropriate Program Enrollment Type (PET) codes.

Medicaid/ Medical Aid (MA)

The client may be eligible for MA under one of the following:

- All requirements for Medicaid have been met.
- MA deductible obligation has been met.

The client must have a scope of coverage of either:

- 1F or 2F.
- 1D or 1K (Freedom to Work).
- 1T (Healthy Kids Expansion).
- 3G (Healthy Michigan Plan).
- 7W (MiChild).
- 8L (Flint).

Clients with a scope of coverage 20, 2C or 2B are **not** eligible for Medicaid until they have met their MA deductible obligation.

Note: A change in the scope of coverage in Bridges will generate a system tickler in Michigan Adult Integrated Management System (MiAIMS) for active services cases.

*Adult Services Manual (ASM) 105,
January 1, 2018, pp. 1-2 of 4
(Underline added by ALJ)*

As discussed during the telephone hearing proceeding, there is no jurisdiction for this Administrative Law Judge to review the Medicaid eligibility determination(s) as part of this HHS appeal.

Pursuant to the ASM 105 policy, clients with an un-met spend-down/deductible obligation are not eligible for HHS, a Medicaid service, until they have met their Medicaid deductible obligation. The information available to the ASW at the time of the November 18, 2019, HHS determination indicated that Petitioner had not met his monthly deductible for Medicaid coverage since the HHS case was opened. Accordingly, the Petitioner was not eligible for HHS because he did not have a qualifying Medicaid eligibility status. Therefore, the November 18, 2019, determination to terminate Petitioner's HHS case must be upheld.

Petitioner's testimony indicated he was providing documentation of medical expenses to the Department office that handles his Medicaid eligibility case. However, they were not timely processing the documentation. (Petitioner Testimony) As discussed, when Petitioner cannot resolve an eligibility issue with his Medicaid case worker, he may wish to contact supervisors at that local Department office and/or file a hearing request. It is

noted that in processing this hearing request, the Department saw the more recent Medicaid eligibility determination that Petitioner met his spend-down in October 2019 and November 2019, and issued HHS payment for those months. (Exhibit A, pp. 8 and 10; ASW testimony)

Petitioner may wish to re-apply for HHS if there are changes in his circumstances, such as meeting his Medicaid deductible or if he has a change in Medicaid eligibility status.

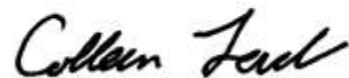
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that that the Department properly terminated Petitioner's HHS case based on the available information.

IT IS, THEREFORE, ORDERED that:

The Department's decision is **AFFIRMED**.

CL/dh



Colleen Lack
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 Department Rep.

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

Petitioner

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

Agency Representative

Theresa Root
222 N Washington Sq
Suite 100
Lansing, MI 48933

DHHS-Location Contact

Wendy Brown
125 E. Union St, 7th Floor
Flint, MI 48502