

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: May 7, 2020  
MOAHR Docket No.: 20-000859  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm**

**DECISION AND ORDER**

Upon the Petitioner's February 10, 2020, 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 May 5, 2020.

Petitioner's authorized hearing representative, [REDACTED], appeared on Petitioner's behalf. Respondent, Senior Services, had John Grib, Advocate Liaison, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 3-page packet of documents provided by Respondent was admitted collectively as Exhibit A.

**ISSUE**

Did Respondent properly terminate Petitioner's services effective August 19, 2019?

**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 is a Medicaid beneficiary who receives services through the MI Choice Waiver program.
2. Respondent provides services through the MI Choice Waiver program.
3. Respondent was Petitioner's service provider through the MI Choice Waiver program until August 19, 2019, when Respondent terminated Petitioner's services.

4. Respondent terminated Petitioner's services effective August 19, 2019, when it discovered that Petitioner had been admitted to a nursing facility in Georgia on August 20, 2019.
5. Respondent did not send a written notice of termination to Petitioner until December 2, 2019.
6. Petitioner attempted to reenroll with Respondent when Petitioner was discharged from the nursing facility in Georgia, but Petitioner completed enrollment with a different MI Choice Waiver program provider before Respondent could complete Petitioner's intake.
7. Petitioner is now receiving services through the MI Choice Waiver program from Carewell Services.
8. On February 10, 2020, Petitioner requested a hearing to dispute Respondent's termination of her services.

### **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 Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Petitioner is receiving services through MI Choice, the Department of Health and Human Services' program to deliver home and community-based services for elderly and disabled individuals who meet the Michigan nursing facility level of care criteria that supports long-term care provided in a nursing facility. MI Choice is a waiver program approved by the Centers for Medicare and Medicaid Services (CMS) under Sections 1915(b) and 1915(c) of the Social Security Act. *MDHHS Medicaid Provider Manual* (July 1, 2019), MI Choice Waiver Chapter, Section 1, p. 1. The Department of Health and Human Services contracts with entities to administer the waiver program throughout the state. *Id.* at Section 7, p. 31. These entities operate as Prepaid Ambulatory Health Plans (PHAPs), and they are known as waiver agencies. *Id.* Respondent is the Waiver Agency in this case.

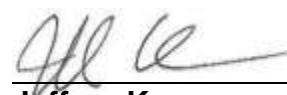
The Medicaid Provider Manual contains the Department's policies related to Medicaid services. It states that when a MI Choice participant is admitted to a nursing facility for rehabilitation services or any other reason, the participant must be removed from MI Choice on the date prior to the nursing facility admission. *Id.* at Section 3, p. 5. In this case, Petitioner was admitted to a nursing facility on August 20, 2019, so Petitioner had to be removed from MI Choice effective August 19, 2019. Thus, Respondent acted appropriately when it terminated Petitioner's services effective August 19, 2019.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that Respondent properly terminated Petitioner's services effective August 19, 2019.

IT IS ORDERED that the Waiver Agency's decision is **AFFIRMED**.

JK/dh



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**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 Department Rep.** Heather Hill  
400 S. Pine 5th Floor  
Lansing, MI 48933

**DHHS -Dept Contact** Brian Barrie  
CCC 7th Floor  
Lansing, MI 48919

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

**DHHS -Dept Contact** Elizabeth Gallagher  
400 S. Pine 5th Floor  
Lansing, MI 48909

**Community Health Rep** John Grib  
Senior Services Inc.  
918 Jasper St.  
Kalamazoo, MI 49001

**Authorized Hearing Rep.**  
[REDACTED]  
[REDACTED]  
[REDACTED] GA [REDACTED]