



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: June 22, 2020
MOAHR Docket No.: 20-001745
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 May 21, 2020. [REDACTED] the Petitioner, appeared on her own behalf. Theresa Root, Appeals Review Officer, represented the Department of Health and Human Services (Department). Juwanne Griggs, Adult Services Worker (ASW), and Julia Willis, Adult Services Supervisor, appeared as witnesses for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-33.

ISSUE

Did the Department properly terminate Petitioner's Home Help Services (HHS) case because she enrolled in the MI Health Link program?

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 that received HHS through her local Department office.
2. Petitioner was previously enrolled in the Medicaid Health Plan (MHP) Aetna Better Health. (Exhibit A, p. 31; Petitioner Testimony)

3. Payments were authorized on Petitioner's HHS case until December 31, 2019. (Exhibit A, p. 31)
4. Effective January 1, 2020, Petitioner was enrolled in the MI Health Link program with an Integrated Care Organization (ICO) Amerihealth Michigan Inc. (Exhibit A, p. 31)
5. Petitioner did not receive an advance written notice that the HHS authorization would be terminated effective January 1, 2020, due to her enrollment in the ICO. (Exhibit A, p. 22-25)
6. Petitioner appealed the termination. A February 4, 2020, Decision and Order found that the Department did not properly terminate Petitioner's HHS case because the required advance notice was not provided to Petitioner. The Department's decision was reversed. (Exhibit A, pp. 22-25)
7. On February 6, 2020, a DHS-1212 Advance Negative Action notice was issued to Petitioner stating her HHS case will be terminated effective February 20, 2020, because she cannot be dually enrolled in the HHS program and an ICO. (Exhibit A, p. 29)
8. On February 19, 2020, a DHS-1212 Advance Negative Action notice was issued to Petitioner stating her HHS case will be terminated because she cannot be dually enrolled in the ICO and the Department's HHS program. Petitioner's case was to close effective March 2, 2020, if she was still enrolled in ICO. (Exhibit A, p. 8)
9. Effective March 1, 2020, Petitioner was still enrolled in the MI Health Link program but changed to the ICO of Aetna Better Health of Michigan. (Exhibit A, p. 31)
10. On March 6, 2020, Petitioner's hearing request was received by the Michigan Administrative Hearing System. (Exhibit A, pp. 4-28)

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.

ASM 126 addresses the MI Health Link program:

Effective March 1, 2015, the Michigan Department of Health and Human Services (MDHHS), in partnership with the Centers for Medicare and Medicaid Services (CMS), implemented a new capitated managed care program called MI Health Link. This program integrates, into a single coordinated delivery system, all physical health care, pharmacy, long-term supports and services and behavioral health care for individuals who are dually eligible for full Medicare and full Medicaid.

ASM 126, November 1, 2019, p. 1.

INTEGRATED CARE ORGANIZATIONS (ICO)

MDHHS and Center for Medicaid and Medicare Services (CMS) contracts with managed care entities called Integrated Care Organizations (ICOs) to provide Medicare and Medicaid covered acute and primary health care, pharmacy, dental and long term supports and services (nursing facility and home and community-based services). The MI Health Link program also includes a home and community-based services (HCBS) waiver for MI Health Link enrollees who meet nursing facility level of care, choose to live in the community rather than an institution, and have a need for at least one of the waiver services.

The Michigan Pre-Paid Inpatient Health Plans (PIHP) in the four demonstration regions are responsible for providing all Medicare and Medicaid behavioral health services for individuals who have mental illness, intellectual/developmental disabilities, and/or substance use disorders.

The following is a list of the ICOs providing MI Health Link services in the four regions of the demonstration project:

(Regions 1, All counties in the Upper Peninsula; and Region 4, Southwest Counties omitted by ALJ)

Region 7 and 9 - Wayne and Macomb Counties (five choices)

Aetna Better Health of Michigan, Inc.
1333 Gratiot
Suite 400

Detroit, MI 48207
1-855-676-5772
www.Aetna Better Health.com/michigan

AmeriHealth Michigan, Inc.
100 Galleria Officentre
Suite 210
Southfield, MI 48034
1-888-667-0318
amerihealthvipcareplus.com

Michigan Complete Health
(Previously known as Fidelis SeniorCare, Inc. of Michigan)
200 Tower Drive
Suite 200
Troy, MI 48098
1-844-239-7387
mmp.michigancompletehealth.com

HAP Midwest Health Plan
2850 W. Grand Blvd.
Detroit, MI 48202
1-888-645-0706
hap.org/midwest

Molina Healthcare, Inc.
880 W. Long Lake Road
Suite 600
Troy, MI 48098
1-855-735-5604
www.MolinaHealthcare.com/Duals

ASM 126, November 1, 2019, pp. 2 -4

COVERED SERVICES

The MI Health Link offers an array of services to dually eligible individuals enrolled in the program. All health care services covered by Medicare and Medicaid including:

- Dental and vision services.
- Diagnostic testing and lab services.
- Emergency and urgent care.
- Equipment and medical supplies.
- Home health services.
- Hospitalizations and surgeries.

- Medications (without co-payments).
- Nursing home services.
- Physicians and specialists.
- Transportation for medical emergencies and medical appointments.

Services for long-term supports and services including:

- Adult day program.
- Chore services.
- Community transition services.
- Equipment to help with activities of daily living.
- Fiscal intermediary services.
- Home delivered meals.
- Home modifications.
- Non-medical transportation.
- Nursing home care.
- Personal care.
- Personal emergency response system.
- Preventive nursing services.
- Private duty nursing.
- Respite.

ASM 126, November 1, 2019, pp. 4-5

Passive Enrollment

Eligible individuals who do not voluntarily enroll in the program receive a notification letter at least 60 days prior to the enrollment effective date informing them they will be passively enrolled in an assigned ICO. Eligible individuals will have a period of 60 days to cancel their passive enrollment in the program if they choose to do so prior to the enrollment effective date.

Individuals may cancel passive enrollment by calling the enrollment broker contracted by the state for the Medicaid managed care program, as indicated in the notification letter. Individuals who do not cancel their enrollment in the program prior to the effective date will be passively enrolled. Prior to the enrollment date, and at any time thereafter, individuals will have the opportunity to select a different ICO than the one assigned, if there is another ICO option in the region.

An ID card specific to the MI Health Link program will be issued to individuals. Use this ID card instead of the traditional Medicare and Medicaid ID cards. It identifies the name of the ICO responsible for coverage along with the MI Health Link logo.

If a client has questions about his or her health care options, refer them to the Michigan Medicare/Medicaid Assistance Program (MMAP) office at 1-800-803-7174.

Note: Clients must call Michigan ENROLLS to enroll, dis-enroll or cancel the passive enrollment of MI Health Link at 1-800-975-7630.

Individuals eligible for MI Health Link may enroll, dis-enroll or cancel the passive enrollment at any time. Dis-enrollment is effective on the first day of the following month.

ASM 126, November 1, 2019, pp. 5-6

HOME HELP

Dual eligible clients enrolled in MI Health Link must receive personal care services through the Integrated Care Organizations (ICOs). Individuals enrolled under this program may **not** receive services from Home Help or Adult Community Placement and MI Health Link concurrently. If the client chooses MI Health Link, the ASW must close the case.

Note: ASWs must generate a DHS-1212, Advance Negative Action Notice, and DCH-0092, Request for Hearings, from MiAIMS when there is a reduction, suspension or termination of services. Make appropriate notations in the comment section to explain the reason for the negative action.

Individuals in MI Health Link may choose to enroll or dis-enroll monthly as permitted by Medicare rules. Therefore, it is important to note that an individual enrolled and receiving personal care services from an Integrated Care Organization (ICO) in one month may choose to dis-enroll from MI Health Link and reapply for Home Help or Adult Community Placement the following month.

ASM 126, November 1, 2019, p. 6
(Underline added by ALJ)

Home Help Individual Caregivers

The Integrated Care Organizations (ICOs) are required to make every effort to bring existing Home Help individual caregivers into their network via contracts or other agreements if the enrollee chooses to maintain their current individual caregiver. Individuals must meet the requirements for personal care individual caregivers set by the ICO policy including passing a criminal history screen.

Individuals providing personal care services to a client enrolled in the ICO plan must contact the ICO to discuss enrollment as a network provider in order to receive payment for personal care services provided.

Refer individual caregivers with questions regarding the transition from Home Help to the MI Health Link plan to the MDHHS Provider Support hotline at 1-800-979-4662.

ASM 126, November 1, 2019, p. 7
(Underline added by ALJ)

Since January 1, 2020, Petitioner has been enrolled in an ICO with the MI Health Link program. (Exhibit A, p. 31) Petitioner's hearing request and testimony indicate she was passively enrolled in the MI Health Link program. As discussed, Petitioner letting the ASW or the local DHHS office know she does want to be enrolled in an ICO cannot result in disenrollment. The ASW and local DHHS office have no involvement in the ICO enrollment/disenrollment process. The above cited policy specifies that clients must call Michigan ENROLLS to enroll, dis-enroll or cancel the passive enrollment of MI Health Link. Further, it appears that when Petitioner spoke with Michigan Enrolls, she did not disenroll from MI Health Link. Rather, Petitioner changed ICOs from Amerihealth Michigan Inc. to Aetna Better Health of Michigan effective March 1, 2020. (Exhibit A, pp. 4-28 and 31; Petitioner Testimony) This is not the same as Petitioner's prior enrollment with Aetna as an MHP, which would have allowed for Petitioner to receive services through the HHS program.

Effective January 1, 2020, Petitioner was no longer eligible for services through the HHS program because she was enrolled in the MI Health Link program. (Exhibit A, p. 31) Pursuant to the above cited ASM 126 policy, the ASW was required to close Petitioner's HHS case. As indicated in the Decision and Order from Petitioner's prior hearing, the Department failed to provide the required written advance notice when they initially closed Petitioner's HHS case. (Exhibit A, pp. 22-25) In compliance with the Decision and Order, Petitioner's HHS case was re-opened so that proper notice of the termination of the HHS case could be sent to Petitioner. However, the Department was unable to authorize any HHS payments when the case was re-opened because Petitioner enrolled in an ICO. (ASW Testimony) Pursuant to the above cited policy,

individuals providing personal care services to a client enrolled in the ICO plan must contact the ICO to discuss enrollment as a network provider in order to receive payment for personal care services provided. The Department subsequently sent the required advance notice to Petitioner explaining that her HHS case would be terminated because she remained enrolled in an ICO. (Exhibit A, pp. 8-9 and 29-30)

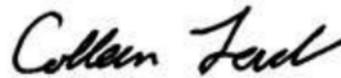
If Petitioner wishes to receive personal care services through the Home Help Services program she must call Michigan ENROLLS to dis-enroll from MI Health Link at 1-800-975-7630. As stated in the above cited policy, dis-enrollment is effective on the first day of the following month.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly terminated Petitioner's HHS case because she remained enrolled in the MI Health Link program.

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-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]
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Agency Representative

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