GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[redacted]
[redacted], MI [redacted]

Date Mailed: December 1, 2023
MOAHR Docket No.: 23-006601
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon the Petitioner's request for a hearing.

After due notice, a telephone hearing was held on November 8, 2023. Petitioner appeared and testified on her own behalf. Marlene McKinzie, Petitioner's home help provider, also testified as a witness for Petitioner. Allison Pool, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Erica Grier, Adult Services Worker (ASW), testified as a witness for the Department.

During the hearing, the Department submitted an evidence packet that was admitted into the record without objection as Exhibit A, pages 1-16. Petitioner did not submit any proposed exhibits.

ISSUE

Did the Department properly decide to 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 is a [redacted] year-old Medicaid beneficiary. (Exhibit A, pages 8, 10-11).

2. In 2020, Petitioner was approved for HHS through the Department. (Exhibit A, page 8).

3. Effective September 1, 2023, Petitioner's Medicaid scope of coverage changed from "1F" to "1Y". (Exhibit A, page 11).

4. On October 6, 2023, the Department sent Petitioner written notice that her HHS would be terminated because her Medicaid eligibility had changed, and she can no longer participate in the home help program. (Exhibit A, pages 7, 9).

5. On October 12, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter with respect to that decision. (Exhibit A, pages 5-6).

6. Petitioner's case has remained open, but no services are being paid for by the Department. (Testimony of ASW).

CONCLUSIONS OF LAW

The Medical Assistance Program 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 statutes, the Social Welfare Act, 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 physician and may be provided by individuals or by private or public agencies.

Regarding the eligibility criteria for HHS, Adult Services Manual (ASM) 105 (6-1-2020) states in part:

> **OVERVIEW**
>
> Home Help services are available if the client meets all eligibility requirements. The Adult Services Worker (ASW) may open a Home Help case with supportive services methodology to assist the client in applying for Medicaid (MA), if necessary.
>
> Home Help services payments cannot be authorized prior to establishing Medicaid eligibility and completing a face-to-face assessment with the client. Once MA eligibility has been established, the case service methodology must be changed to case management.

Requirements

Home Help eligibility requirements include **all** the following:

- Medicaid eligibility.
- Appropriate program enrollment type (PET) code.
- 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).

Medicaid Eligibility

The client may be eligible for Medicaid (MA) when either all requirements for Medicaid eligibility have been met, or the Medicaid 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 (MI Child).
- 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 the Michigan Adult Integrated Management System (MiAIMS) for active services cases.

ASM 105, page 4

As described in the above policy, HHS are only available if a client meets all eligibility requirements, including having a listed scope of coverage.

In this case, the Department decided to terminate Petitioner's HHS on the basis that she no longer has a scope of Medicaid coverage that meets the eligibility requirements for HHS.

In appealing that decision, Petitioner bears the burden of proving by a preponderance of the evidence, that the Department erred in terminating her HHS. Moreover, the

undersigned Administrative Law Judge is limited to reviewing the Department's decision in light of the information it had at the time it made the decision.

Given the available information and applicable policies in this case, Petitioner has failed to meet that burden of proof, and the Department's decision must be affirmed.

As provided above, an individual is only eligible to receive HHS if he or she has one of the scopes of coverage listed in policy; and it is undisputed in this case that Petitioner no longer had such a scope of coverage once her coverage changed to "1Y".

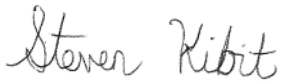
Moreover, while Petitioner and her provider testified that Petitioner was never notified of the change in her scope of coverage until after it occurred, and that Petitioner did not request a hearing with respect to that decision once they learned of it because Petitioner did not know how to do so, the undersigned Administrative Law Judge is limited to reviewing the decision to terminate her HHS in this case; he cannot review any decision regarding Petitioner's scope of coverage; and, based on the information the Department had, its decision was proper.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department properly decided to terminate Petitioner's HHS.

IT IS, THEREFORE, ORDERED that:

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



SK/sj

Steven Kibit
Administrative Law Judge

NOTICE OF APPEAL: Petitioner 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

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties, to their last known addresses in the manner specified below, this 1st day of December 2023.

S. James

S. James
Michigan Office of Administrative Hearings and Rules

Via Electronic Mail:

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