STATE OF MICHIGAN
GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[redacted]
[redacted] MI [redacted]

Date Mailed: September 5, 2024
MOAHR Docket No.: 24-008307
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

DECISION AND ORDER

This matter is before the Michigan Office of Administrative Hearings and Rules (MOAHR) and the undersigned Administrative Law Judge (ALJ) 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 September 4, 2024. [redacted] Petitioner's home help provider, appeared and testified on Petitioner's behalf. Petitioner also testified as a witness on her own behalf. John Lambert, Appeals Review Officer, appeared and testified on behalf of the Respondent Department of Health and Human Services (DHHS or Department). Kristel Ezell, Adult Services Worker (ASW), and Margo Peterson, Adult Services Program Manager, also testified as witnesses for the Department.

During the hearing, the Department submitted an evidence packet that was admitted into the record without objection as Exhibit A, pages 1-73. 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 who was approved for HHS through the Department beginning in December of 2021. (Exhibit A, page 25).

2. Effective March 1, 2024, Petitioner's Medicaid scope of coverage changed from "1F" to "1Y". (Exhibit A, page 27).

3. As of that date, she also had a Medicaid deductible/spend-down of $1,686.00 per month. (Exhibit A, page 27).

4. Her Medicaid deductible was later increased to $1,748.00 per month as of April 1, 2024. (Exhibit A, page 27).

5. Petitioner has never met that deductible in any month since it was established. (Exhibit A, page 27).

6. On July 9, 2024, the Department sent Petitioner written notice that her HHS would be suspended because she did not currently have qualifying Medicaid. (Exhibit A, page 33).

7. On July 25, 2024, the Department sent Petitioner written notice that her HHS would be terminated because she did not qualify for HHS. (Exhibit A, page 34).

8. On July 26, 2024, MOAHR) received the request for hearing filed in this matter. (Exhibit A, pages 8-24).

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.

Medicaid Personal Care Option

Clients who have a Medicaid deductible, and need Home Help personal care services, may become eligible for MA under the Medicaid personal care option (PCO).

Discuss this option with the client and coordinate implementation with the client's eligibility specialist.

Conditions of eligibility:

- The client meets all Medicaid eligibility factors except income.
- A Home Help case is open.
- The client is eligible for personal care services.
- The cost of personal care services is more than the MA excess income amount.

If all the above conditions have been satisfied, the client has met the MA deductible requirements. The adult services worker can apply the personal care option in MiAIMS. The deductible amount is found by clicking the Check MA/PET button in MiAIMS. **When processing a payment for a client using the personal care option, it is important to remember to enter the deductible amount on the Payment Detail screen when authorizing the payment in MiAIMS so that the deductible amount is subtracted from the Home Help payment.**

Use the DHS-1210, Services Approval Notice, to notify the client of Home Help services approval when MA eligibility is met through this option. The notice must inform the client that the Home Help payment will be reduced by the deductible amount, and that the client is responsible for paying the provider the MA deductible amount each month.

Do **not** close a case eligible for MA based on this policy option if the client does not pay the provider. It has already been ensured that MA funds will not be used to pay the client's deductible liability. The payment for these expenses is the responsibility of the client.

Changes in the client's deductible amount will generate a system tickler from Bridges to MiAIMS.

MA eligibility under this option cannot continue if the cost of personal care becomes equal to or less than the MA excess income amount.

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 evidence that the Department erred in deciding to terminate 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" beginning in March of 2024. Moreover, while Petitioner could receive HHS if she met her Medicaid deductible obligation each month, it is also undisputed that Petitioner has never done so since the deductible was put into place.

Petitioner's representative questioned the policy in this case given Petitioner's needs and circumstances, and the need for society to care for its elderly members, but both the Department and the undersigned Administrative Law Judge are bound by that policy.

Petitioner's representative also asked about the Medicaid Personal Care Option identified in the above policy, but that option is not available to Petitioner given that the cost of Petitioner's personal care services is less than her excess income amount.

Petitioner's representative further indicated that Petitioner wanted to dispute the change in her coverage and the amount of her Medicaid deductible, but such issues are beyond the scope of this proceeding and Petitioner must request a hearing with respect to that action. The undersigned Administrative Law Judge would note that, upon receiving Petitioner's request for hearing in this case, MOAHR forwarded Petitioner's request to the intake staff for the Department for processing of the eligibility issue. Petitioner's representative also reported being in contact with Petitioner's eligibility worker and she is encouraged to follow up with that worker regarding the status of any appeal of Petitioner's Medicaid eligibility.

In this case however, the undersigned Administrative Law Judge is limited to reviewing the decision to terminate Petitioner's HHS; and, based on the information the Department had, the Department's 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**.

Steven Kibit

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 5th day of September 2024.

S. James

S. James
Michigan Office of Administrative Hearings and Rules

Via Electronic Mail:

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