



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR



Date Mailed: April 6, 2016
MAHS Docket No.: 15-019691
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

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 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on March 31, from Detroit, Michigan. Petitioner appeared and was represented by [REDACTED]. [REDACTED] appeared as a sign language interpreter for Petitioner and her authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED] manager, and [REDACTED], specialist.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (MSP) eligibility due to excess income.

The second issue is whether MDHHS took an adverse action to Petitioner's Medicaid eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was a disabled individual.
2. Petitioner was an ongoing MSP recipient.
3. Petitioner received \$923 in monthly RSDI benefits.

4. Petitioner received gross monthly employment income of at least \$1,139.
5. On [REDACTED], MDHHS mailed Petitioner a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-2) informing Petitioner of a termination of MSP benefits, effective November 2015.
6. On [REDACTED], Petitioner requested a hearing to dispute a termination of MSP and Medicaid eligibility.
7. MDHHS took no negative action concerning Petitioner's Medicaid eligibility.

CONCLUSIONS OF LAW

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's hearing request indicated she was deaf and required use of a certified American Sign Language interpreter. Petitioner brought a sign language interpreter to the hearing. Petitioner testified that use of the interpreter was an acceptable accommodation and the hearing was conducted accordingly.

Petitioner's hearing request indicated a dispute of MSP benefits. Petitioner's AHR clarified the dispute concerned a termination of MSP eligibility.

MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles (see BEM 165 (October 2015), p. 2). Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium (see *Id.*). Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if DHHS funding is available. (see *Id.*).

MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-2) dated [REDACTED]. The notice stated Petitioner's MSP eligibility would end November 2015 due to excess income.

[MDHHS is to] determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as explained in COUNTABLE RSDI in this item. [MDHHS is

to] apply the deductions in BEM 540 (for children) and 541 (for adults) to countable income to determine net income.

It was not disputed that Petitioner was a disabled individual. It was not disputed that Petitioner was a member of a 3-person household, along with her 2 children.

It was not disputed that Petitioner received RSDI of \$923/month. MDHHS allows a \$20 disregard, making Petitioner's countable income \$903.

Petitioner's pay stub dated [REDACTED] (Exhibit 1, p. 7) was presented; Petitioner's biweekly gross income was listed as \$603.43. Petitioner's pay stub dated [REDACTED] (Exhibit 1, p. 6) was presented; Petitioner's gross income was listed as \$590.04.

MDHHS calculated Petitioner's gross monthly employment income to be \$1,139. It is not known how MDHHS calculated Petitioner's monthly employment income, however, presented pay stubs verified an income of at least the amount calculated by MDHHS. For purposes of this decision, it is found Petitioner's gross employment income is \$1,139.

MDHHS allows a \$65 and 50% income disregard for employment income. Petitioner's countable employment income is found to be \$537. Petitioner's countable RSDI and employment income total is found to be \$1,440.

Countable budget expenses including those for guardianship, conservator, and cost of living adjustments (for January through March only). None of the expenses were applicable to Petitioner. It is found Petitioner's net countable income for MSP eligibility is \$1,440.

Income eligibility exists [for MSP] when net income is within the limits in RFT 242 or 247. *Id.*, p. 7. The MSP income limit for Petitioner's 1-person group (children are not counted in MSP group size) is \$1,344.13. RFT 242 (May 2015), p. 1. Petitioner's countable net income exceeds the income limits for MSP eligibility. Accordingly, it is found that DHS properly terminated Petitioner's MSP eligibility.

Petitioner's AHR also testified that Petitioner intended to dispute a termination of Medicaid eligibility. Petitioner's hearing request only specified a MSP dispute, though a MA dispute was checked. Petitioner's hearing will be interpreted to have included a dispute concerning a Medicaid termination.

Petitioner perceived the MSP termination notice to also be a termination notice of Medicaid eligibility. The notice was silent concerning Petitioner's Medicaid eligibility. During the hearing, MDHHS was asked to provide documentation verifying Petitioner's current Medicaid eligibility.

MDHHS presented a MA- EDG Summary. The summary stated Petitioner was “Eligible for Group 1 Medical Services.” The document also stated Petitioner’s coverage was “Full Medicaid coverage under Freedom to Work Medicaid (Premium).” An eligibility begin date of [REDACTED] was indicated.

Freedom-to-work (FTW) is Medicaid coverage for disabled persons who are also employed. The presented documentation was persuasive evidence that Petitioner receives Medicaid coverage.

Depending on a client’s income, FTW eligibility may require client payment of a Medicaid premium. MDHHS testimony indicated Petitioner is not required to pay a Medicaid premium. The MDHHS testimony is somewhat inconsistent with the MA- EDG Summary which stated “premium” as part of Petitioner’s coverage.

During the hearing, MDHHS was given time to provide more persuasive proof that Petitioner is not responsible for a FTW premium. MDHHS returned with no documents but stated no notices were sent to Petitioner informing her of a FTW premium. Petitioner testimony conceded she has not received any notices of a FTW premium obligation.

[For all programs], upon certification of eligibility results, Bridges [the MDHHS database] automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (October 2015), p. 2. The notice of case action is printed and mailed centrally from the consolidated print center. *Id.*

The absence of a FTW premium notice is not the ideal evidence to support the conclusion that MDHHS determined Petitioner is not responsible for payment of a Medicaid premium. In the present case, it was the best evidence presented.

If it is later discovered that Petitioner is responsible for a FTW premium, MDHHS and the undersigned share responsibility for failing Petitioner. Petitioner was advised that if MDHHS threatens Petitioner’s ongoing FTW eligibility due to a non-payment of a premium, a hearing request should be immediately submitted.

Given presented evidence, it is found Petitioner received ongoing Medicaid coverage with no premium requirement. Accordingly, Petitioner’s hearing request will be dismissed as no negative action was established concerning Petitioner’s Medicaid eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner did not establish a termination or premium requirement to Petitioner’s ongoing Medicaid eligibility. Petitioner’s hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's MSP eligibility, effective November 2015. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki
Administrative Law Judge
for Nick Lyon, 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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Counsel for Complainant

[REDACTED]

DHHS

[REDACTED]

Petitioner

[REDACTED]