



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 31, 2017
MAHS Docket No.: 16-018987
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, a telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED], Petitioner's Authorized Hearing Representative and an attorney. The Petitioner did not appear. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistant Attorney General, and [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close the Petitioner's Medicare Savings Program (MSP) benefits for failure to verify information?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing recipient of MSP benefits.
2. The Department sent the Petitioner a Redetermination packet on [REDACTED].
3. A Verification Checklist (VCL) for verification of assets was sent to the Petitioner on [REDACTED], which requested verification of his bank statement for [REDACTED] and [REDACTED]. Exhibit B.
4. The verifications were due to be returned by [REDACTED].

5. On [REDACTED], the Department received a PNC Bank statement with the [REDACTED] verification of assets form, which stated "see attached info, Please understand that we keep some extra funds in [REDACTED] acct to protect him from overdraft mistakes. Thank you, [REDACTED]." Exhibit F.
6. The attached info was the [REDACTED] statement. The requested information provided was not completed and was not signed by a [REDACTED] representative. Exhibits F and G.
7. The Department closed the Petitioner's MSP effective [REDACTED]. The Department sent a HCCDN on [REDACTED] because the verification for the [REDACTED] account was not returned.
8. The Petitioner's representative provided a statement from the [REDACTED] dated [REDACTED], confirming that the [REDACTED] Savings Account had been closed as of [REDACTED]. The Department received the [REDACTED] letter on [REDACTED]. Exhibit H.
9. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The 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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department sent the Petitioner a Redetermination dated [REDACTED] regarding the Petitioner's Medicare Savings Program (MSP) benefits. As part of the Redetermination, the Department sought to verify Petitioner's assets and requested verification of two bank accounts, [REDACTED] and [REDACTED]. The Department closed the Petitioner's MSP case when it did not receive the requested verification for [REDACTED]. The response provided on behalf of the Petitioner did not advise the Department why the verification for [REDACTED] was not completed but instead directed the Department to see the attached info, in a hand written note. The note did not provide any information about [REDACTED] and a blank form for [REDACTED] was attached as well as a completed verification for [REDACTED].

At the hearing, Petitioner's AHR testified that the [REDACTED] account was closed and ultimately provided the Department written verification of the account closure by a [REDACTED] representative in a letter received after the verifications were due received by the Department on [REDACTED]. Exhibit H.

The Department must periodically review and redetermine the individual's eligibility for active programs. The redetermination process included a thorough review of all eligibility factors.

Medicaid

Benefits stop at the end of the benefit period **unless** a renewal is completed **and** a new benefit period is certified. Also, the renewal month is 12 months from the **date the most recent complete application was submitted**. BAM 210 (July 1, 2016), p.3

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

BAM 130, (October 1, 2016) p. 1

All Programs

Tell the client what verification is required, how to obtain it, and the due date; see **Timeliness of Verifications** in this item. Use the DHS-3503, Verification Checklist (VCL), to request verification.

Medicaid

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times. BAM

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date.

Send a case action notice when:

- The client indicates refusal to provide a verification, **or**

- The time period given has elapsed.
- Only **adequate** notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits. BAM 130, p. 3
- Report.

In this case, the evidence presented established that the Petitioner failed to verify information about his [REDACTED] account in a timely manner by the VCL due date. The verification request was clear, and the Petitioner did not respond to the request for information regarding [REDACTED]. In addition, the Petitioner's AHR did finally provide the Department a written letter by [REDACTED] on [REDACTED], which was after the verification due date and after the negative action date.

When the Petitioner's MSP benefits were closed a Health Care Determination Notice dated [REDACTED] was sent to Petitioner advising that the MSP program would close [REDACTED] for the reason no verification of Bank Account was returned. Exhibit G. Thereafter, information was received by the Department from the Petitioner regarding [REDACTED], however it was not received until [REDACTED], after the negative action date. In addition, the Petitioner did not request a hearing until [REDACTED], which was after the Negative Action Date established in the Notice. In this case the negative action date was [REDACTED]. Once that date is past the case may not be reinstated. Department policy provides:

Timely Notice

All Programs

Timely notice is given for a **negative action** unless policy specifies adequate notice or no notice. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. BAM 220, (January 1, 2017), p. 5

Bridges automatically calculates the negative action date. The negative action date on Bridges is the day after the timely hearing request date on the Bridges notice of case action.

Timely Hearing Request Date

The timely hearing request date is the last date on which a client can request a hearing and have benefits continued or restored pending the hearing. It is always the day before the negative action is effective. BAM 220, p. 11.

Thus, consulting the HCCDN, the Department could not reinstate the Petitioner's MSP case as the Petitioner's Request for Hearing was received by the Department after the Negative Action Date. In addition, the requested information was not received by the Negative Action Date, which was [REDACTED]. Exhibit G, (page 3 of Notice). **The Notice advises that DHS must receive your request for an appeal within 10 days of the mailing date of this notice to continue receiving your benefits. Return your request on or before [REDACTED].**


Therefore, based upon the facts and evidence presented, it is determined that the Department properly closed the Petitioner's MSP benefits case for failure to return the Redetermination. The Petitioner may reapply at any time for MSP.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed the Petitioner Medicare Savings Program benefits case for failure to verify bank information.

Accordingly, the Department's decision is **AFFIRMED**.

LMF/jaf



Lynn M. Ferris

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

DHHS

[REDACTED]

Counsel for Respondent

[REDACTED]

Petitioner

[REDACTED]

Counsel for Petitioner

[REDACTED]

[REDACTED]