



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 14, 2018
MAHS Docket No.: 18-003947
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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; 42 CFR 438.400 to 438.424; 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 June 11, 2018, from Detroit, Michigan. Petitioner was present with his wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's and Petitioner's wife's Medicare Savings Program (MSP) benefit cases?

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 and his wife were ongoing MSP recipients.
2. On February 26, 2018, Petitioner submitted a redetermination related to his and his wife's MSP benefit cases (Exhibit A).
3. On March 5, 2018, the Department sent Petitioner a Verification Checklist (VCL) requesting various verifications (Exhibit B).
4. On April 2, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his and his wife's MSP benefit cases were closing effective May 1, 2018, ongoing, for his failure to return required verification (Exhibit D).

5. On April 10, 2018, Petitioner submitted a request for hearing disputing 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, Petitioner completed a redetermination on February 26, 2018. On March 5, 2018, the Department sent Petitioner a VCL requesting verification of his savings account, as well as his wife's earned income and self-employment income. Proofs were due by March 15, 2018.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department presented Petitioner's electronic case file (ECF). The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF contains all forms, documents and other evidence to the group's current and past eligibility. BAM 300, p. 1. The ECF revealed Petitioner did not return the requested verifications. As a result, the Department sent Petitioner a Health Care Coverage Determination Notice on April 2, 2018 informing Petitioner that his and his wife's MSP benefit cases were closing effective May 1, 2018, ongoing.

Petitioner testified that he received the VCL. Petitioner stated that he was unable to timely obtain the requested verifications. Petitioner stated that his wife's business is a cash only operation and they do not keep business receipts. Petitioner's wife had not yet filed her 2017 taxes and they did not have a current tax return. Petitioner also stated his wife receives her income from employment via direct deposit. Petitioner did not have any pay statements available and was unable to timely retrieve them from his wife's employer. Additionally, Petitioner stated he was unable to obtain a statement from his bank regarding his assets in his savings account prior to the due date. Petitioner testified that he was confused by what the Department was requesting and contacted his worker for assistance. Petitioner attempted to contact his worker on numerous occasions prior to the due date to seek assistance and inform her of his issues with timely obtaining the verifications. Petitioner stated he was never able to speak with his worker.

Petitioner's testimony that he was unable to obtain the required verifications, despite reasonable effort, was credible. Petitioner properly contacted his worker to inform her of the issue and he should have been afforded up to two extensions. Therefore, the Department did not act in accordance with policy when it closed Petitioner's and Petitioner's wife's MSP benefit cases.

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 did not act in accordance with Department policy when it closed Petitioner's and Petitioner's wife's MSP benefit cases.

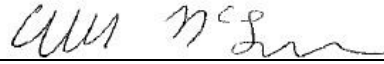
Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's and Petitioner's wife's MSP benefit eligibility as of May 1, 2018, ongoing;
2. If Petitioner and his wife are eligible for MSP benefits, issue supplements they are entitled to receive as of May 1, 2018, ongoing; and

3. Notify Petitioner of its decision in writing.

EM/cg



Ellen McLemore
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) 763-0155; 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

Via Email:



Petitioner – Via First-Class Mail:

