



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

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Date Mailed: January 8, 2019
MAHS Docket No.: 18-011210
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on December 13, 2018, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Natalie McLaurin.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's Medical Assistance (MA) benefits and denying Medicare Savings Plan (MSP) benefits?

FINDINGS OF FACT

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

1. On ██████ ██████ 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of his checking account by August 3, 2018. Exhibit A, p 6.
2. On September 17, 2018, the Department received Petitioner's Health Care Coverage Supplemental Questionnaire (DHS-1004). Exhibit A, pp 7-10.
3. On September 6, 2018, the Department notified Petitioner that he was not eligible for Medical Assistance (MA) or the Medicare Savings Program (MSP) as of August 1, 2018. Exhibit A, pp 11-14.
4. On October 23, 2018, the Department received Petitioner's request for a hearing protesting the closure of his Medical Assistance (MA) benefits. Exhibit A, pp 2-3.

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.

There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2018), pp 2-4.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. The Department will assume an asset is available unless evidence shows it not available. Department of Human Services Bridges Eligibility Manual (BEM) 400 (May 1, 2018), pp 1-7.

Petitioner was an ongoing MA recipient and had requested that the Department assist him with his obligation to pay for Medicare Part B premiums. Petitioner had been enrolled in the Health Michigan Plan (HMP), which does not have an asset limit, but that category of MA is only available for individuals who are 19-64 years of age. Department of Health and Human Services Bridges Eligibility Manual (BEM) 137 (January 1, 2019), p 1.

Petitioner appears to be eligible for "full Medicaid" under the AD-CARE based on his age and the fact that his gross monthly income is less than the federal poverty level.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 163 (July 1, 2017), pp 1-3.

However, this category of MA has an asset limit. Therefore, on July 25, 2018, the Department requested that Petitioner provide verification of the balance of checking account listing Petitioner as an account holder. When Petitioner did not provide verification of the balance of that account, the Department closed Petitioner's MA benefits and denied MSP benefits.

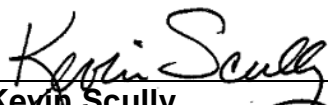
Petitioner argued that the account is his son's account but conceded that his name appears on the account. Petitioner failed to establish that the funds in that account are not available to him, and the Department is required to assume that the funds are available unless evidence shows it is not available. Available cash assets are countable towards the asset limit. On July 25, 2018, the Department requested that Petitioner provide verification of the bank account, and when Petitioner failed to provide this information, it was appropriate to close Petitioner's benefits.

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 Petitioner's Medical Assistance (MA) benefits and denied his request for Medicare Savings Program (MSP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/dh



Kevin Scully
Administrative Law Judge
for Farah Hanley, Acting 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

DHHS

Kathleen Verdoni
411 East Genesee
PO Box 5070
Saginaw, MI 48607

Saginaw County, DHHS

BSC2 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

Petitioner

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