



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 15, 2019
MOAHR Docket No.: 19-002455
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; 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, an in-person hearing was held on May 9, 2019 from Southfield, Michigan. Petitioner appeared and was unrepresented. [REDACTED] Petitioner's spouse (hereinafter, "Spouse") testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by LaShona Callen, supervisor, and Nikeva Mays, specialist.

Petitioner's hearing request specified a need for a Punjabi translator for her husband. During the hearing, Petitioner agreed to proceed without a translator.

ISSUE

The issue is whether MDHHS properly terminated Spouse's Medical Assistance (MA) 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. On an unspecified date, Petitioner submitted a document (hereinafter, "Document") to MDHHS listing balances for two bank accounts. Document included Spouse's first name but not Spouse's last name or address. A print date in December 2018 was indicated. Exhibit A, p. 7.
2. On December 7, 2018, MDHHS approved Spouse for Medicaid subject to a monthly deductible. Exhibit 1, pp. 1-3.

3. On February 15, 2019, and February 20, 2019, MDHHS mailed Petitioner notice of Spouse's approval for Medicaid for the month of September 2009.¹ Exhibit 1, pp. 4-10.
4. On February 15, 2019, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting documentation of a checking account. The due date for Petitioner to return verification was February 25, 2019.
5. As of March 2019, Spouse was a disabled individual and Medicare recipient.
6. On March 8, 2019, MDHHS initiated termination of Spouse's Medicaid eligibility effective March 2019.
7. On March 19, 2019, Petitioner requested a hearing to dispute the termination of Spouse's MA eligibility. Petitioner also resubmitted the undated document which listed Spouse's name and bank balances (Exhibit A, p. 7).
8. As of March 19, 2019, Petitioner's only submitted verification of checking account was Document.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested hearings with MDHHS on February 26, 2019, and March 11, 2019, and March 19, 2019. In an attempt to simplify the issues for Petitioner's hearing scheduled for May 9, 2019, a prehearing conference was held on April 11, 2019. The resulting order dismissed Petitioner's hearing requests dated February 26, 2019, and March 11, 2019, leaving only Petitioner's hearing request dated March 19, 2019, as unresolved.

On March 19, 2019, Petitioner requested a hearing to dispute a termination of Spouse's MA coverage. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated March 8, 2019, stated that Spouse's MA coverage would end beginning March 2019 due to Petitioner's alleged failure to verify assets. Exhibit A, pp. 9-12. For MDHHS to

¹ MDHHS does not typically approve clients for Medicaid nearly 10 years after the benefit month but did so in this case.

establish a proper closure based on assets, MDHHS must establish that assets must be factored in determining Spouse's eligibility. Whether assets are an eligibility factor depends on the Medicaid categories for which Spouse is potentially eligible.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

As of the hearing date, Spouse was disabled. As a disabled and/or aged individual, Spouse is potentially eligible for Medicaid through SSI-related categories.

As of the hearing date, Spouse was a caretaker to minor children and Medicare recipient. As a caretaker to minor children, Spouse is potential eligible for Medicaid under MAGI-related categories. All known applicable MAGI-related categories have income limits under Spouse's monthly income of \$[REDACTED] Healthy Michigan Plan (HMP) has a higher income limit, but Spouse would not be eligible for HMP as a Medicare recipient. BEM 137 (January 2019) p. 1. Given the evidence, Spouse appears only eligible for Medicaid under SSI-related MA categories.

For SSI-related MA, cash assets are countable. *Id.*, pp. 2-3. MDHHS is to verify the value of countable assets at application, redetermination and when a change is reported. *Id.*, p. 59. Acceptable verifications of checking account include the following:

- Telephone contact with financial institution.
- Written statement from financial institution.
- Monthly statement (Examination of checkbook is not sufficient.)

Id., p. 61.

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

MDHHS mailed Petitioner a Verification Checklist dated February 15, 2019, requesting Petitioner's checking account information. Petitioner contended that she did submit a bank document because she submitted Document to MDHHS in December 2018. MDHHS responded that the submitted document was insufficient verification of a checking account and approving Spouse's Medicaid was erroneous; thus, an updated verification was requested.

Petitioner rightly emphasized that MDHHS received Document and approved Spouse's Medicaid eligibility for a time. Thus, from Petitioner's perspective, her submission was an acceptable verification.² MDHHS responded that MDHHS' reliance on the document was improper because it lacked required information such as a date and sufficient information tying the document to Spouse. Petitioner's document included a date of printing. A date of printing does not necessarily tie to the listed balances. For example, a person theoretically could print a document today listing bank balances from any time in the past. Such a document is less reliable when it does not include more definitive information tying the accounts to the client. In the present case, Document listed Spouse's first name but not his last name or address. Also notable is that a printing of account balances only is not among the acceptable checking account verifications listed by MDHHS in BEM 400.

Consideration was given to whether MDHHS should have requested checking account information after previously approving Spouse's Medicaid eligibility. Technically, MDHHS' request on February 15, 2019, occurred neither at application, time of redetermination, nor a reported change. Ultimately, such consideration is rejected as MDHHS has discretion to correct a previous verification error tied to a redetermination. Thus, MDHHS' request for checking account verification was proper.

The evidence established that MDHHS properly requested required verification for Spouse's Medicaid eligibility which was not timely returned. Thus, MDHHS properly initiated termination of Spouse's MA eligibility. As discussed during the hearing, Spouse can reapply for MA benefits and seek up to three retroactive months if Medicaid for Spouse is needed back to March 2019.

² Petitioner also testified that MDHHS accepted verification similar to Document for many years in the past. An analysis of whether MDHHS accepted such documentation in the past is not relevant to whether MDHHS properly did not accept Document as acceptable verification before terminating Spouse's Medicaid eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Spouse's Medicaid eligibility beginning March 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf



Christian Gardocki

Administrative Law Judge
for Robert Gordon, 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 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 30639
Lansing, Michigan 48909-8139

DHHS

Linda Gooden
MDHHS-Oakland-6303-Hearings

Petitioner

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