



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: July 1, 2019
MOAHR Docket No.: 19-005595
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 27, 2019, from Detroit, Michigan. The Petitioner was self-represented and appeared with his daughter, [REDACTED], as a witness. The Department of Health and Human Services (Department) was represented by Renisha Black, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) Program 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 May 14, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that his MA case would close effective June 1, 2019 because he was not under 21, pregnant, a caretaker of a minor child, not over aged 65, not blind, and not disabled; the notice also informed Petitioner that his Medicare Savings Program (MSP) case number had been changed and he would receive a letter showing his approved benefit with a new case number but that there would be no change in benefits.
2. On May 22, 2019, the Department received Petitioner's request for hearing disputing the closure of his MA benefits.

3. On May 24, 2019, the Department issued a Notice of State Supplemental Security Income (SSI) Payment Change to Petitioner informing him that effective May 24, 2019, his State SSI payment would be ending because he did not receive a first of the month SSI payment for the previous three months.
4. On June 4, 2019, the Department completed a State Online Query (SOLQ) showing that Petitioner was receiving the Medicare Part B buy-in from the State of Michigan (meaning he was eligible for the Medicare Savings Program), that he was receiving an Retirement, Survivors and Disability Insurance (RSDI) benefit of \$687.00 per month, and that his SSI benefit had ended in January 2019.

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, according to the Department's testimony, Petitioner's MA benefits were closed because he was no longer receiving his SSI payment. According to the Department's HCCDN, Petitioner's MA benefits were closed because he was not under 21, pregnant, a caretaker of a minor child, over age 65, blind, or disabled. The Department did not dispute at the hearing that Petitioner is over age 65 or that he is disabled. The parties agree that he is not under 21, pregnant, or a caretaker of a minor child.

If Petitioner's MA case was closed because of the loss of his SSI benefit, the following policies apply:

To receive SSI MA, a client must be an SSI recipient, a Michigan resident, and cooperate with third-party resource liability requirements. BEM 150 (April 2017), p. 1. When a client loses his/her SSI benefits, the local office is required to close the client's MA-SSI benefit if the closure was for a reason that prevents continued eligibility, such as death or moving out of state, or the Department must transfer the client to the SSI Termination (SSIT) type of assistance. BEM 150, p. 6. After the SSIT change is made, the Department is required to set a redetermination date for the second month after

transfer to allow for an ex parte review. *Id.* An ex parte review is a determination made by the Department without the involvement of the recipient, the recipient's parents, spouse, authorized representative, guardian, or other members of the recipient's household after review of all available materials in the recipient's current MA eligibility case file. BPG Glossary (April 2019), p. 26.

At the hearing, the Department testified that no ex parte review was completed, no redetermination was issued and was uncertain whether an application had been issued, and no evidence was presented that Petitioner was placed in the SSIT program. The Department has not met its burden of proof in establishing that the closure of Petitioner's MA benefits was in accordance with Department policy.

Finally, the evidence presented was unclear as to whether Petitioner had continuing Medicare Savings Program (MSP) coverage. The Department issued a notice on May 14, 2019 indicating that Petitioner's MSP case was closing effective June 1, 2019 and that it would reopen under another case number with another letter being issued to show approval of the benefit. The only reason provided for the need to change the case number was because the original MSP benefits were tied to the MA-SSI case, but no policy or law was cited to show that this was necessary. Two notices were issued more than a month later regarding Petitioner's MSP coverage but the Department was uncertain what the status of Petitioner's MSP eligibility was at the time of the hearing. Therefore, the Department has not met its burden of proof that the closure of Petitioner's MSP benefits was in accordance with Department policy.

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 MA and MSP benefits.

DECISION AND ORDER

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. Reinstate Petitioner's MA-SSI or an MA SSIT case effective June 1, 2019;
2. Reinstate Petitioner's MSP benefits effective June 1, 2019;
3. Issue supplements to Petitioner or on his behalf for benefits not previously received due to the Department's improper closures;

4. Redetermine Petitioner's eligibility for MA and MSP benefits;
5. Issue notice to Petitioner regarding its decisions.



AMTM/jaf

Amanda M. T. Marler

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

Montrece White
MDHHS-Macomb-20-Hearings

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

BSC4
D Smith
EQAD