



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 25, 2019
MOAHR Docket No.: 19-006255
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 administrative hearing was held on July 24, 2019, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Karen Smalls, APS. Martina Brown, ES Worker, appeared as a witness.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) case for verification reasons?

FINDINGS OF FACT

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

1. At all relevant times, Petitioner and her spouse have been MA beneficiaries. Petitioner and her spouse have received MA for multiple years.
2. In [REDACTED] 2019, Petitioner's case was due for a redetermination.
3. On March 18, 2019, the Department issued an annual verification checklist (VCL) requesting, among other items, proof regarding Petitioner's spouse's pension by proof of one of the following: "Recent check stub(s)" or "Letter or document from person/agency making payment." Exhibit A.7-8.

4. On March 22, 2019, Petitioner submitted a letter to the Department informing them that the pension payment is a direct deposit. Petitioner submitted copies of the direct deposition from Mass Mutual "██████████ ████████" of \$433.75, along with a 1099-R showing gross, taxable, and state withholding for 2018. There was no inconsistency in the amounts on the 1099R, the bank direct deposition, or Petitioner's representation as to the gross amount.
5. The payments have not changed in years. The verifications that Petitioner has submitted each year have been the same for the pension payments.
6. The Department did not further communicate with Petitioner after her March 22, 2019, letter but instead on March 29, 2019, issued a Health Care Coverage Determination Notice closing the MA on the grounds that the Department did not receive verification of Petitioner's spouses "unearned income."
7. Petitioner's MA case closed effective May 1, 2019.
8. On June 7, 2019 Petitioner filed a hearing request.

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, applicable policy is found in BEM 503. The verification requirements section of BEM 503 states in part that sufficient verification of unearned income can be a recent check stub or "other acceptable methods that provides necessary information." As noted above, the VCL indicates that more than one method of verification is acceptable, including a document from agency making payment. In addition, general verification requirements are found in BAM 100, 105, 115. These items indicate that if an individual needs assistance in obtaining the requested varication, then the Department is to assist the individual.

Here, Petitioner wrote out an explanation, and provided proof of the pension payments into the bank account. Petitioner also provided a 1099R from 2018 which showed gross,

net, and state withholding. All figures of gross payment on each verification were identical.

The Department argued that this was not sufficient as Petitioner may be receiving a gross amount that is different from the 1099R that states the gross amount. The Department also argued that it asked for a pay stub.

After a careful review of the credible and substantial evidence of record, this ALJ finds that the Department did not follow its policy when it closed Petitioner's MA for the reasons set forth below.

First, BEM 503 allows for the submission of alternate sources. Here, the Department requested a pay stub. A pay stub typically refers to earned income, not unearned. A pension is unearned. Petitioner explained that Mass Mutual does not issue pay stubs. Rather, a direct deposit is made. Petitioner provided verification — a bank statement showing a direct deposit from Mass Mutual into Petitioner's account. This is an acceptable alternative form of verification.

In addition, Petitioner submitted a copy of the 1099R from 2018 showing gross and net. The gross amount and the direct deposition when accounting for the state withholding is the same. The Department's argument that the gross may be different from the gross makes no sense with these facts. All the figures — the ██████ bank account, Petitioner's representations, Petitioner's letter, and the 1099R form — all show the same amount.

Moreover, if the Department did not find the verification sufficient, then the Department has the duty to inform Petitioner as to an alternative and/or assist Petitioner in working with Mass Mutual to obtain the form the Department claims it is looking for. It appears that the Department is the only entity that believes that such a form exists—a "pay stub" of the pension apyment. If the Department has some information that Petitioner does not that a pay stub is available, law and policy require the Department to assist Petitioner in obtaining requested verification from 3rd parties. Here, the Department failed to respond to Petitioner at all but instead closed her case.

The undersigned finds Petitioner's multiple verifications of her spouse's pension is sufficient, as it has been for years with the DHHS. The Department is reversed.

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 case from the date of closure, and continuing.
2. Issue any supplemental benefits to Petitioner and Petitioner's spouse to which they are entitled.

IT IS SO ORDERED.

JS/dh



Janice Spodarek
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
25620 W. 8 Mile Rd
Southfield, MI 48033

Oakland County (District 3), DHHS

BSC4 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

Petitioner

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