



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

██████████
██████████
██████████ MI ██████████

Date Mailed: October 2, 2019
MOAHR Docket No.: 19-008391
Agency No.: ██████████
Petitioner: ██████████

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, a telephone hearing was held on September 23, 2019, from ██████████ Michigan. Petitioner appeared and testified. During the hearing, Petitioner authorized ██████████ to be her authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Laquansa Shah, specialist, and Gloria Taylor, specialist.

ISSUE

The issue is whether MDHHS properly complied with a Hearing Decision concerning Petitioner'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. As of April 2019, Petitioner was an ongoing recipient of Medicaid under the Healthy Michigan Plan (HMP) category.
2. On April 2, 2019, MDHHS mailed a Redetermination form.
3. On April 12, 2019, MDHHS received documentation verifying 30 days of Spouse's employment income.

4. On May 21, 2019, MDHHS mailed Petitioner a notice of Medicaid termination beginning June 2019.
5. On June 14, 2019, MDHHS received proof of Petitioner's bank account balances from Petitioner's bank. Exhibit A, p. 16.
6. On July 16, 2019, an administrative law judge (ALJ) issued a Hearing Decision ordering MDHHS to reinstate Petitioner's MA benefits and to redetermine Petitioner's MA eligibility. Exhibit A, pp. 8-11.
7. On July 22, 2019, MDHHS mailed Petitioner a Verification Checklist requesting proofs concerning a checking account and Spouse's employment. Exhibit A, pp. 12-13.
8. On August 1, 2019, Petitioner requested a hearing alleging that MDHHS failed to comply with the Hearing Decision dated July 16, 2019. Exhibit A, p. 3.
9. On August 6, 2019, MDHHS determined that Petitioner and Spouse were ineligible for MA benefits beginning July 2019; and Spouse was ineligible for MA beginning August 2019. MDHHS denied eligibility based on Petitioner's alleged failure to verify both assets and Spouse's employment income. Exhibit A, pp. 5-7.

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 a hearing to dispute an alleged failure by MDHHS to comply with a Hearing Decision dated July 16, 2019. The Hearing Decision reversed a termination of Petitioner's MA eligibility and ordered MDHHS to perform the following actions:

- (1) Reinstate Petitioner's MA benefits beginning June 2019;
- (2) Redetermine Petitioner's MA eligibility including consideration of all MA categories;
- (3) Request verification if there are unclear, inconsistent, contradictory, or incomplete verifications;
- (4) Issue a supplement for benefits improperly not issued; and
- (5) Issue notice to Petitioner.

MDHHS claimed compliance with the Hearing Decision dated July 16, 2019. MDHHS testimony indicated that Petitioner's MA eligibility was reinstated. MDHHS further indicated that an attempt was made to redetermine Petitioner's MA eligibility. MDHHS contended that the redetermination process ended after Petitioner failed to submit proper verifications for checking accounts and employment income for Spouse.

For MA, MDHHS is to inform 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. 8. MDHHS may 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 VCL on July 22, 2019, giving Petitioner until August 1, 2019, to return verification of her checking account and Spouse's employment income. For purposes of this decision, it will be assumed that Petitioner failed to comply with the VCL. MDHHS' contended that Petitioner's failure to comply with the VCL request justified terminating Petitioner's eligibility on August 6, 2019.

MDHHS must have a basis to request information before terminating a client's eligibility due to a failure to verify information. Petitioner contended that MDHHS had no legitimate basis to request the information because she had already provided verifications to MDHHS.

During the hearing, MDHHS acknowledged that Petitioner had submitted 30 days of income information for Spouse in April 2019 as part of the redetermination process. MDHHS also acknowledged that Petitioner's submission was appropriate, at that time. MDHHS contended that updated employment information was needed because several months had passed when MDHHS reevaluated Petitioner's eligibility. Though several months had elapsed, the lapse was only due to MDHHS' error. MDHHS was ordered to redetermine Petitioner's MA eligibility for the same benefit month for which Petitioner submitted Spouse's employment verifications in the first place. If Petitioner's employment income submission in April 2019 complied with MDHHS' verification request, MDHHS did not need to request updated income verifications from Petitioner.

MDHHS also contended that updated asset information was needed from Petitioner. MDHHS acknowledged receipt on June 14, 2019, of Petitioner's checking account balances. MDHHS contended that the balances were insufficient verification because they were not bank statements.

Verification sources for assets includes telephone contact with financial institution, written statement from financial institution, and/or a monthly statement. BEM 400 (April 2019), p. 63. An examination of a client's checkbook is not sufficient verification. *Id.*

Though a bank statement is an acceptable form of verification, so is a written statement from a client's bank. MDHHS received a written statement from Petitioner's bank listing account balances for each of Petitioner's accounts. The documentation sent by Petitioner's bank listed Petitioner's balances and could have been used to determine Petitioner's asset eligibility without a need for additional verification.

MDHHS testimony emphasized that an asset detection report listed one of Petitioner's bank account balances to be \$5,398.96 as of April 1, 2019. MDHHS contended that Petitioner's balance, which is above the asset limit of \$3,000 for Supplemental Security Income (SSI)-related categories, rendered a need for additional verification. Whether Petitioner was above the asset limit on April 1, 2019, had no effect on Petitioner's eligibility for June 2019. The documentation verifying Petitioner's balances on June 14, 2019, was acceptable verification of the value of Petitioner's assets.

Given the evidence, MDHHS did not establish that Petitioner failed to comply with a valid request for assets or employment income. Thus, the termination of Petitioner's MA eligibility was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's Medicaid eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's Medicaid eligibility, beginning June 2019, subject to the findings that Petitioner verified employment income for Spouse and checking account balances;
- (2) Issue any Medicaid benefits to Petitioner which were improperly not issued; and
- (3) Issue notice in accordance with MDHHS policy.

The actions taken by MDHHS are **REVERSED**.

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 (via electronic mail)

Denise McCoggle
MDHHS-Wayne-15-Hearings
BSC4
D Smith
EQAD

Petitioner (via first class mail)

██████████
████████████████████
██████ MI ██████