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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: January 16, 2020
MOAHR Docket No.: 19-012436
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three-way telephone hearing was held on December 18, 2019, from ██████████ Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Brigitte Ivey, Eligibility Specialist, and Kathy Burr, Assistance Payments Supervisor.

ISSUE

Did the Department properly close the Petitioner's Medical Assistance (MA) and his Medicare Savings Program (MSP) benefits due to failure to complete the verifications?

FINDINGS OF FACT

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

1. The Petitioner was an ongoing recipient of MA and MSP Qualified Medicare Beneficiary (QMB) benefits.
2. During a redetermination for MA, the Petitioner was asked to verify his assets identified as two life insurance policies.
3. On October 4, 2019, the Department sent the Petitioner a Verification Checklist (VCL) which requested the Petitioner provide verification of two life insurance policies. The VCL had a due date of October 14, 2019. The Petitioner did receive

the VCL but did not respond because he needed to obtain copies of the policies. Exhibit B.

4. The Petitioner did file a written response to the VCL on December 3, 2019, after his MA case had closed.
5. The Department issued a Health Care Coverage Determination Notice on November 7, 2019, advising Petitioner that he was no longer eligible for MA due to failure to verify two policies of life insurance requested by the Department. The Petitioner's case closed, effective December 1, 2019. Exhibit A.
6. After the MA closure, the Petitioner reapplied on November 22, 2019, for medical assistance and was approved by a Benefit Notice issued December 18, 2019, advising Petitioner that his AD Care (Full coverage Medicaid) was approved, effective December 1, 2019. There was no lapse in MA coverage; and thus, there is no issue to be determined with respect to Petitioner's Medical Assistance. Exhibit C.
7. The Petitioner's Medicare Savings Program (MSP) benefits also closed when his MA case closed due to his failure to verify his life insurance on December 1, 2019, due to his MA closure. The Petitioner has not received MSP benefits after he reapplied. The Petitioner's Part B premium was not paid in December 2019 even though he is approved for MSP benefits for QMB.
8. The Petitioner requested a timely hearing on December 16, 2019, protesting the closure of the Petitioner's MA and his Medicare Savings Plan.

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, the Department closed the Petitioner's MA on December 1, 2019, due to failure of Petitioner to respond to a Verification Checklist sent to him at his correct address on October 4, 2019, with an October 14, 2019 due date to provide the copies of

two insurance policies so that Petitioner's asset eligibility for MA could be determined. Subsequently, Petitioner reapplied and provided the life insurance policies to the Department on December 3, 2019, after his MA case had closed. The Department issued a Benefit Notice on December 18, 2019, advising Petitioner his application was approved, effective December 1, 2019. The Petitioner had no lapse in MA coverage; and thus, there is no issue which remains regarding the MA closure. The Petitioner testified that he did not timely complete the verification of the life insurance; and thus, the initial closure by Health Care Notice dated November 7, 2019 was correct. Thus, no issue remains to be determined regarding medical coverage. BAM 130, (April 2017), pp. 1-4.

The Petitioner also is eligible for Medicare Savings Program (MSP) benefits, which closed December 1, 2019, when he failed to provide verifications requested by the Department. Although Petitioner's MA benefits were approved December 1, 2019, after he reapplied, different rules apply to the MSP program as to when benefits start. The MSP QMB pays the Medicare Part B premiums. Petitioner questioned why his MSP benefits were also not active and paid for in December 2019. Department policy provides when MSP QMB benefits begin:

QMB pays:

- Medicare premiums, and

Note: QMB pays Medicare Part B premiums and Part A premiums for those few people that have them.

- Medicare coinsurances, and
- Medicare deductibles.
- Begin QMB coverage **the calendar month after the processing month**. The processing month is the month during which an eligibility determination is made. QMB is **not** available for past months or the processing month. BEM 165 (January 2018), pp. 1, 3-4.

The processing date of Petitioner's reapplication in this case was December 17, 2019; thus, the processing month was December 2019. Based on the requirements of BEM 165 referenced above, the Petitioner's QMB benefits must begin in January 2020 as QMB is not available in the processing month or for any past months.

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 the Petitioner's MA case for failure to respond to the VCL by the due date and also correctly determined that MSP benefits would begin January 2020.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

LMF/jaf



Lynn M. Ferris
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

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