



GRETCHEN WHITMER
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: October 2, 2020
MOAHR Docket No.: 20-005269
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 hearing was held on September 30, 2020, via telephone conference line. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Emily Luther, manager.

ISSUES

The first issue is whether Petitioner is entitled to a hearing over an alleged misrepresentation of job title by a MDHHS specialist.

The second issue is whether MDHHS properly determined that Petitioner is ineligible for Medicare Savings Program (MSP) 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 ██████████ 2020, Petitioner applied for MSP.
2. On January 22, 2020, MDHHS denied MSP benefits to Petitioner due to not meeting basic criteria for the program.
3. From January 2020 through August 11, 2020, Petitioner was not eligible for Medicare- Part A.

4. On August 11, 2020, Petitioner requested a hearing to dispute MSP eligibility. Additionally, Petitioner alleged that an MDHHS worker committed fraud by representing herself as a “commissioner”.

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. MDHHS 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, in part, alleging that a MDHHS staff member misrepresented her title and claimed to be a commissioner. Exhibit A, p. 3. Petitioner’s hearing request asked that the person be “held accountable” if she is not a commissioner. For purposes of this decision, it will be assumed that someone at MDHHS told Petitioner that she was a commissioner.¹

The Michigan Office of Administrative Hearings and Rules (MOAHR) can grant a hearing for actions affecting benefits or services. MOAHR jurisdiction is limited to the following:

- Denial of an application or supplemental payment.
 - Reduction in benefits or services.
 - Suspension or termination of benefits or services.
 - Restrictions under which benefits or services are provided.
 - Delays in action beyond the standards of promptness.
 - A denial of expedited service or the current level of benefits (FAP and CDC only)
- BAM 600 (January 2020) p. 5.

Petitioner’s pursuit of accountability for MDHHS staff who allegedly misrepresented a job title is notably not a basis for administrative hearing jurisdiction. Without administrative hearing jurisdiction, Petitioner’s hearing request concerning this specific matter will be dismissed.

¹ Making this assumption does not imply that Petitioner’s allegation has merit. Petitioner wrote that he was trying to call someone at MDHHS, but accidentally called a wrong number. Petitioner claims that the person who answered represented herself as a commission who would try to help him. He also claimed that she later denied that she was a commissioner.

Petitioner also requested a hearing to dispute a denial of MSP eligibility.² Exhibit A, p. 3. A Health Care Coverage Determination Notice dated January 22, 2020, stated that Petitioner was denied due to not meeting the basic criteria for MSP. Exhibit A, pp. 21-24.

MSP is an SSI-related Medicaid category. BEM 165 (January 2018) p. 1. One of three different types of subprogram are available under MSP. Qualified Medicare Beneficiaries coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), p. 2. Specified Low Income Beneficiaries coverage pays for a client's Medicare Part B premium. *Id.* Additional Low Income Beneficiaries coverage pays for a client's Medicare Part B premium if MDHHS funding is available. *Id.* A person must be enrolled in Medicare Part A to be eligible for MSP. *Id.*, p. 5.

As MSP is a benefit which pays for a client's Medicare premiums, coinsurances, and/or deductibles, it would only be beneficial for someone with Medicare. Pursuing MSP without Medicare would be analogous to pursuing a discount on an item that was not being purchased. MDHHS contended that Petitioner sought MSP despite not receiving Medicare.

A MDHHS manager testified that Petitioner's State Online Query (SOLQ) was checked during the hearing.³ She further testified that Petitioner's SOLQ listed no eligibility for RSDI or Medicare.

Throughout the hearing, Petitioner claimed eligibility for Medicare. He also implied that identity theft and/or collusion by SSA and/or MDHHS staff were obstacles in proving his Medicare eligibility. Petitioner contended that a letter from SSA dated August 31, 2020, proves his Medicare eligibility. Exhibit 1, pp. 1-2. The letter from SSA stated that Petitioner was eligible for \$0 benefits beginning October 2005 and that his benefits stopped October 2005.⁴ The letter further stated that \$0 was deducted for insurance. The letter was silent concerning Medicare eligibility for Petitioner.⁵

² BAM 600 precludes clients from requesting hearings more than 90 days after MDHHS sends notice of a written action. Petitioner waited much longer than 90 days to dispute the denial of MSP; however, clients may be eligible for MSP even without applying for benefits. BEM 165 (January 2018) p. 3. Thus, Petitioner could theoretically be eligible for MSP even after his application was denied. For this reason, Petitioner's hearing request will not be dismissed due to its untimeliness.

³ MDHHS obtains SOLQs from a data exchange with SSA. BAM 801. An SOLQ contains a client's SSA information included current benefit amounts and eligibility for Medicare.

⁴ Under a section titled, "Type of Social Security Benefit Information", the letter states, "You are entitled to monthly disability benefits." Perhaps Petitioner interpreted this statement as an approval for SSA benefits. Given the full letter, it did not verify that Petitioner was eligible for monthly benefits.

⁵ After the hearing, Petitioner submitted a page of an SOLQ as part of an email subject, "THEY LIE LIKE 90 GOING NORTH...". The SOLQ submitted by Petitioner listed blank Medicare information which is consistent with Medicare ineligibility. A net payment of \$780 was listed; however, the status of Petitioner's payment is terminated (as coded by "T9").

Given the evidence, Petitioner is not eligible for Medicare Part A. Without Medicare Part A, Petitioner is ineligible for MSP. Thus, MDHHS properly denied Petitioner's application requesting MSP.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds no administrative hearing jurisdiction for Petitioner's pursuit of accountability of MDHHS staff who purportedly misrepresented his or her job title. Concerning this matter, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for MSP benefits dated January 11, 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/jem



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

Via Email:

MDHHS-Macomb-20- Hearings
BSC4-HearingDecisions
EQADHearings
D. Smith
MOAHR

Petitioner – Via USPS:

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