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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: August 19, 2019  
MOAHR Docket No.: 19-006363  
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 August 7, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearing facilitator.

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner's eligibility for Medicare Savings Program (MSP).

### **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 January 2019, Petitioner was an ongoing recipient of MSP. Petitioner's MSP benefit period was certified through February 2019.
2. On February 1, 2019, MDHHS approved Petitioner and Spouse for MSP for the month of February 2019. Exhibit B, pp. 1-4.
3. On March 8, 2019, Petitioner and Spouse reapplied for MSP benefits.
4. On March 29, 2019, MDHHS mailed written notice of Medicaid to Petitioner and Spouse. The notice did not address Petitioner's or Spouse's MSP eligibility.

5. On June 3, 2019, MDHHS terminated Petitioner's and Spouse's MSP benefits.
6. On June 11, 2019, MDHHS approved Petitioner and Spouse for MSP beginning May 2019. Exhibit A, p. 2.
7. On June 14, 2019, Petitioner requested a hearing to dispute the absence of MSP benefits for himself and Spouse from February 2019 through April 2019.
8. As of the hearing date, MDHHS had not mailed Petitioner written notice of MSP eligibility from Petitioner's application dated March 8, 2019.

### **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).

The MA program includes Medicaid and MSP benefits. BEM 105 (April 2017), p. 2. MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), p. 2. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if MDHHS funding is available. *Id.*

Petitioner's hearing request specified a dispute over the absence of MSP benefits beginning February 2019. Petitioner's testimony agreed that MDHHS approved him and Spouse for MSP benefits beginning May 2019. A Health Care Coverage Determination Notice dated February 1, 2019, stated Petitioner and Spouse were approved for MSP in February 2019. Petitioner testified that he only needed a hearing to address his and Spouse's MSP eligibility for March 2019 and April 2019. Petitioner's and Spouse's MSP eligibility for March 2019 and April 2019 was impacted by multiple happenings.

MDHHS terminated Petitioner's and Spouse's ongoing MSP eligibility beginning March 2019. MDHHS testified that Petitioner's and Spouse's eligibility stopped due to a failure to return a Redetermination form. MDHHS testimony acknowledged that Petitioner returned a Redetermination form in January 2019. Also, Petitioner reapplied for MSP benefits in May 2019. If Petitioner reported retroactive MA expenses, MDHHS could have evaluated Petitioner eligibility for retroactive MSP benefits from April 2019 and May 2019. Despite possible problems in terminating Petitioner's and Spouse's MSP

eligibility and the processing of Petitioner's application in May 2019. The analysis will focus on a third happening.

MDHHS acknowledged that Petitioner reapplied for MSP benefits on March 8, 2019, after his Spouse's MSP benefits ended. MDHHS testimony indicated that a written notice addressing Medicaid eligibility was mailed on March 29, 2019, but that a written notice addressing MSP eligibility was never mailed. During the hearing, MDHHS also provided no basis for denying the application.

MDHHS is to certify eligibility results for each program within a prescribed standard of promptness. BAM 115 (January 2019), p. 2. Generally, the standard of promptness for processing requests for MA is 45 days. *Id.*, p. 16. Shorter standards apply only if the client requesting benefits is pregnant (15 days) or seeks refugee medical benefits (30 days); neither pregnancy nor refugee status are applicable in the present case. *Id.* MDHHS must also issue written notice of the application outcome. BAM 220 (July 2018), p. 2.

The evidence failed to establish that MDHHS processed Petitioner's application dated March 8, 2019, requesting MSP benefits. The evidence also failed to establish that MDHHS issued proper written notice of the application's outcome. Thus, MDHHS improperly processed Petitioner's application dated March 8, 2019. MDHHS' failure entitles Petitioner to a remedy of a reprocessing of the application.


### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to process Petitioner's application dated March 8, 2019, requesting MSP benefits for Petitioner and Spouse. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's application dated March 8, 2019, requesting MSP benefits for himself and Spouse;
- (2) Process Petitioner's application in accordance with MDHHS policy, including notifying Petitioner via written notice of the application's outcome.

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

CG/jaf

  
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**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 Electronic Mail  
**DHHS**

Susan Noel  
MDHHS-Wayne-19-Hearings

BSC4  
D Smith  
EQAD

Via First Class Mail  
**Petitioner**

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