



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 19, 2019
MAHS Docket No.: 19-000190
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 March 14, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Sabrina Hopkins, Assistance Payments Supervisor. During the hearing, a 9-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-9. During the hearing, the parties stipulated to the admission of five more documents as Exhibit B, pp. 1-16. Those five documents are: (1) a February 1, 2019, Health Care Coverage Determination Notice; (2) an SOLQ report; (3) verifications related to Petitioner's employment with [REDACTED] (3) a budget for December 2018; and (5) 2018 W2s from the Social Security Administration, [REDACTED]

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) benefits case under the Medicare Savings Plan (MSP), effective December 1, 2018?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of MA benefits under the MSP.
2. In September 2018, the Department issued to Petitioner a Redetermination form in order to gather relevant information regarding Petitioner's ongoing eligibility for MSP benefits. The completed form was required to be returned to the Department

in early October 2018. Petitioner returned the completed form to the Department timely, but the Department failed to process her submission.

3. On October 10, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MSP case was closing, effective November 1, 2018, because Petitioner did not meet program guidelines. On the second page of the Notice, the Department informed Petitioner that the Department calculated Petitioner's countable annual income to be \$28,944. Exhibit A, pp. 6-9.
4. On October 26, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice reiterating the information contained in the October 10, 2018 Health Care Coverage Determination Notice. Again, Petitioner's annual income was determined to be \$28,944. Exhibit B, pp. 1-4.
5. During the relevant time period, Petitioner was receiving \$944 per month in unearned income. Exhibit B, pp. 5-10.
6. In November 2018, Petitioner stopped working at her job with [REDACTED]. Later that month, she began working for [REDACTED]. During the hearing, Petitioner credibly testified that she timely reported the changes to the Department.
7. The Department did not take into consideration Petitioner's change in circumstances and budgeted income far above what Petitioner was actually making. Petitioner's total income for 2018 between [REDACTED], [REDACTED] and her unearned income was \$20,317.22. Despite reporting changes in circumstances, the Department did not alter in any way the budgeting of Petitioner's income. Exhibit B, pp. 14-16.
8. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the closure of her MA benefits case under the MSP.

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.

There are three categories of MSP benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. BEM 165 (January 2018), pp. 2-4. Full-coverage QMB eligibility cannot be retroactive. BAM 115 (October 2018), p. 12.

Petitioner was an ongoing recipient of MSP benefits when the Department initiated a routine review of her eligibility for ongoing benefits by sending her a Redetermination (DHS-1010) form at her address of record. Petitioner timely returned the completed form. However, the Department did not process Petitioner's submission until December 2018. Because the Department's records reflected that Petitioner did not return the form by the due date, the Department issued to Petitioner an October 10, 2018 and an October 26, 2018 Health Care Coverage Determination Notice informing Petitioner that her MSP benefits case was closing effective November 1, 2018. See BAM 210 (January 2018). Petitioner then submitted a timely hearing request challenging the Department's closure of her MSP benefits case, effective November 1, 2018.

Periodically, the Department must redetermine or renew a client's eligibility for Department-issued benefits by the end of each benefit period. BAM 210 (January 2018), pp. 1, 4. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. If a redetermination is not completed and a new benefit period certified, benefits stop at the end of the benefit period. BAM 210, p. 4. To initiate the redetermination process, the Department issues to clients a redetermination form; that form must be completed and returned to the Department in a timely manner. BAM 210, p. 1.

In this case, the Department served Petitioner with the redetermination form in order to initiate the redetermination process, and Petitioner timely returned the completed form to the Department. The Department, however, did not timely process either the redetermination or any of the subsequently reported changes to income. In this case, Petitioner's case was closed because she allegedly failed to return to the Department a response to a document the Department in fact timely received. Additionally, it appears as though the Department then determined Petitioner's eligibility based on incorrect income information.

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 failed to establish that it acted in accordance with Department policy when it closed Petitioner's MSP benefits case, effective November 1, 2018.


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 MSP benefits case, effective November 1, 2018;
2. Reprocess Petitioner's Redetermination and reported changes in income pursuant to Department policy;
3. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits she may thereafter be due; and
4. Issue written notice of any case action(s) in accordance with Department policy.

JM/cg



John Markey
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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Wayne-57-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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