



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 26, 2019  
MAHS Docket No.: 19-001210  
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 21, 2019, from Detroit, Michigan. Petitioner was represented by his Authorized Representative and wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by Rene Colvin, Assistance Payments Supervisor, and Annette Dent, Eligibility Specialist. During the hearing, a 21-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-21.

**ISSUE**

Did the Department properly determine Petitioner's eligibility for Medicare Savings Program (MSP) benefits for August 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. On [REDACTED], 2018, Petitioner submitted to the Department an application for MSP benefits. Exhibit A, pp. 4-10.
2. Petitioner had four life insurance policies. On October 3, 2018, the Department issued to Petitioner a Verification Checklist (VCL) along with Life Insurance Verification forms requesting information related to each of those policies. The deadline for returning those verifications was originally October 15, 2018. An extension was granted giving Petitioner additional time. Exhibit A, pp. 11-20.

3. On October 30, 2018, Petitioner submitted all of the requested information to the Department. The Department's system was at the time suffering from some kind of malfunction that resulted in Petitioner's submission not being processed in a timely manner.
4. On November 14, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that he was ineligible for MSP benefits, effective August 1, 2018, ongoing, due to his failure to return requested verifications related to the life insurance policies. Exhibit A, p. 21.
5. At some point after November 14, 2018, the Department processed Petitioner's October 30, 2018 verifications. Subsequently, the Department approved Petitioner for MSP benefits, effective September 1, 2018.
6. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's denial of MSP benefits for the month of August 2018.

### **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, Petitioner applied for MSP benefits from the Department on [REDACTED], 2018. The Department subsequently requested verifications related to Petitioner's assets, specifically information related to four life insurance accounts. The Department received that information on October 30, 2018. On November 14, 2018, the Department issued a Health Care Coverage Determination Notice denying Petitioner's application for MSP benefits, effective August 1, 2018, ongoing. Sometime shortly thereafter, the Department processed Petitioner's October 30, 2018 verifications, which led to the Department approving Petitioner for MSP benefits, effective September 1, 2018, ongoing. Petitioner filed a request for hearing objecting to the denial of MSP benefits for the month of August 2018.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. Additionally, the

Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, page 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

During the hearing, the Department representative conceded that the November 14, 2018 Health Care Coverage Determination Notice erroneously denied Petitioner's application for MSP benefits, effective [REDACTED] 2018. Even though the Department subsequently processed Petitioner's verifications and approved his MSP coverage, it was only for September 1, 2018, ongoing. The Department stipulated that it failed to properly consider Petitioner's eligibility for MSP benefits for August 2018 and requested an order reversing the denial and directing it to reconsider Petitioner's eligibility for that month. Petitioner had no objection to that course of action. Accordingly, the Department's November 14, 2018 Health Care Coverage Determination Notice is reversed.

### **DECISION AND ORDER**

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 satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MSP eligibility for August 2018.

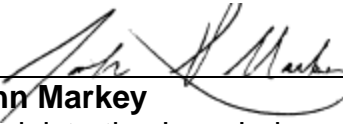
Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's eligibility for MSP benefits for the month of August 2018;
2. Issue clear requests for information if there are any verifications still needed;
3. If Petitioner is eligible for additional MSP benefits, issue MSP supplements Petitioner was eligible to receive for August 2018; and

4. Notify Petitioner in writing of its decision.

JM/cg

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**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-82-Hearings  
D. Smith  
EQAD  
BSC4- Hearing Decisions  
MAHS

**Petitioner – Via First-Class Mail:**

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