



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: June 28, 2019
MOAHR Docket No.: 19-005061
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 June 20, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Brenda Drewnicki, Hearings Facilitator. During the hearing, a 40-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-40.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) case, effective June 1, 2019?

Did the Department properly close Petitioner's Medicare Savings Program (MSP) benefits case, effective June 1, 2019?

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, MSP, and Food Assistance Program (FAP) benefits.
2. As part of the mid-certification process for her FAP benefits, Petitioner submitted a document to the Department stating that her assets had changed. Exhibit A, p. 15.

3. On March 14, 2019, April 9, 2019, and April 17, 2019, the Department issued to Petitioner requests for information related to Petitioner's assets. Exhibit A, pp. 18-23.
4. Petitioner provided some but not all of the verifications requested.
5. On April 29, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA and MSP benefits cases were closing, effective June 1, 2019, due to Petitioner's failure to provide verifications of her assets. Exhibit A, pp. 25-27.
6. On May 9, 2019, Petitioner provided all of the verifications that had been requested. Exhibit A, pp. 8-14.
7. On May 9, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's impending closure of Petitioner's MA and MSP benefits cases.

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.

MSP benefits are SSI-related MA categories. 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. ALMB coverage is available for retro MA months and later months. BEM 165 (January 2018), pp. 2-4. Income eligibility for MSP benefits exists when net income for the fiscal group is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in BEM 165. RFT 242 (April 2019), pp. 1-2; BEM 165 (January 2018), pp. 7-8. RSDI income is counted. BEM 165, p. 8.

In this case, Petitioner was an ongoing recipient of MA, MSP, and FAP benefits from the Department. When Petitioner reported to the Department that she had a change in assets, it caused the Department to seek to verify Petitioner's assets. The Department issued to Petitioner several requests for documentation, but Petitioner failed to completely comply with all of the requests. Accordingly, the Department issued a Health Care Coverage Determination Notice on April 29, 2019 informing Petitioner that her MA and MSP cases were closing, effective June 1, 2019. On May 9, 2019, Petitioner provided to the Department all of the information that it had requested. Also on May 9, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her MA and MSP cases, effective June 1, 2019.

For both the MA and MSP programs involved, there are asset limits to eligibility. BEM 400 (October 2018), p. 1. 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, p. 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 to provide the verification that is required. BAM 130, p. 7. If the time period for providing the verifications passes without having provided the verifications and the benefit period has expired, the case is to be closed as of the end of the benefit period. BAM 130, p. 8. However, if an individual complies with program requirements before the negative action date, the Department must restore the program. BAM 205 (January 2018), p. 1.

During the hearing, the Department's witness conceded that Petitioner's compliance with the program requirements before the negative action date by submitting all requested verifications on May 9, 2019 should have prevented the closure of her cases, effective June 1, 2019. Thus, the Department's decision to close those programs, effective June 1, 2019, is reversed.

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 did not act in accordance with Department policy when it closed Petitioner's MA and MSP benefits cases, effective June 1, 2019.

DECISION AND ORDER

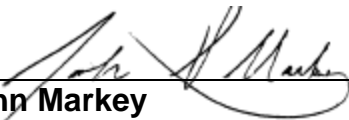
Accordingly, the Department's decision is **REVERSED**.

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 MA and MSP benefits back to June 1, 2019;

2. Redetermine Petitioner's eligibility for MA and MSP benefits going forward;
3. If there are any eligibility-related factors that remain unclear, inconsistent, contradictory, or incomplete, request verifications pursuant to Department policy;
4. If Petitioner is eligible for additional benefits that she did not receive, promptly issue a supplement; and
5. Notify Petitioner in writing of its decisions.

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 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-12-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail::

[REDACTED], MI [REDACTED]