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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: July 31, 2019
MOAHR Docket No.: 19-006216
Agency No.: ██████████
Petitioner: ██████████

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 July 22, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Andrea Edwards, Hearings Coordinator. During the hearing, a 27-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-27.

ISSUE

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

Did the Department properly deny Petitioner's ██████████, 2019 application for MSP benefits for the period from May 1, 2019 through May 31, 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 MSP benefits from the Department.
2. On ██████████ 2019, Petitioner submitted to the Department an application for State Emergency Relief (SER) benefits.
3. On ██████████, 2019, the Department issued to Petitioner a Verification Checklist relating to Petitioner's eligibility for SER benefits and another Verification Checklist

relating to Petitioner's ongoing eligibility for MSP benefits. The MSP benefits-related Verification Checklist required Petitioner to verify certain assets and return the verifications to the Department by March 25, 2019 in order to avoid the closure of her MSP benefits case.

4. Petitioner received the Verification Checklists but did not fully read them nor did she respond to them.
5. On March 26, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MSP benefits case was closing, effective May 1, 2019 as a result of Petitioner's failure to return the required verifications.
6. On [REDACTED] 2019, Petitioner traveled to a Department office and applied for MSP benefits. Exhibit A, pp. 5-11.
7. On May 9, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her application for MSP benefits was approved, effective June 1, 2019. However, Petitioner was informed that her application was denied for the period from May 1, 2019 through May 31, 2019. Exhibit A, pp. 12-15.
8. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions that resulted in Petitioner ultimately being ineligible for MSP benefits for only the month of May 2019.

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. BEM 165 (January 2018), p. 1.

In this case, Petitioner was an ongoing recipient of MSP benefits from the Department when she submitted to the Department a [REDACTED], 2019 application for SER benefits. When Petitioner submitted the application for SER benefits, it triggered a review of Petitioner's eligibility for MSP benefits. As a part of that process, the Department issued

to Petitioner a March 13, 2019 Verification Checklist requiring Petitioner to return to the Department verifications related to Petitioner's ongoing eligibility for MSP benefits by March 25, 2019 in order to prevent the closure of her case.

Petitioner received the correspondence from the Department. However, Petitioner admittedly did not read the Verification Checklist and ignored the request from the Department. When the Department had not received the required verifications by the deadline, the Department issued to Petitioner a March 26, 2019 Health Care Coverage Determination Notice informing Petitioner that her MSP benefits case would close, effective May 1, 2019 as a result of Petitioner's failure to respond to the Department's March 13, 2019 Verification Checklist. On May 1, 2019, Petitioner's MSP benefits case was closed.

Also on ██████ 2019, Petitioner went to a Department office and submitted to the Department an application for MSP benefits. On May 9, 2019, Petitioner's application was approved for the period from June 1, 2019, ongoing. However, for the period from May 1, 2019 through May 31, 2019, Petitioner's application was denied as the Department found that the program Petitioner applied for does not allow for eligibility during the month of application.

Petitioner then timely submitted to the Department a request for hearing objecting to the closure of her MSP benefits case and subsequent denial of her application with respect to May 1, 2019 through May 31, 2019, which was the only month that Petitioner did not receive MSP benefits as a result of this course of events.

CLOSURE OF MSP BENEFITS CASE, EFFECTIVE MAY 1, 2019

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. BAM 105 (January 2018), p. 8. For the MA program 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. 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.

Petitioner received the March 13, 2019 Verification Checklist requesting information regarding her assets, which were relevant to Petitioner's ongoing eligibility. The document informed Petitioner that she was required to respond by March 25, 2019 in order to prevent the closure of her MSP benefits case. Petitioner did not respond at any point in time. In fact, no effort to resolve the situation was expended until Petitioner

traveled to a Department office on [REDACTED] 2019 to reapply for MSP benefits. As Petitioner had not made a reasonable effort to provide the verifications by the deadline, the Department appropriately issued to Petitioner the March 26, 2019 negative case action notice closing her MSP benefits case, effective May 1, 2019.

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 acted in accordance with Department policy when it closed Petitioner's MSP benefits case, effective May 1, 2019.

DENIAL OF MSP BENEFITS MAY 1, 2019 THROUGH MAY 31, 2019

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.

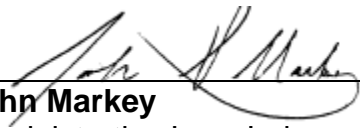
The Department received Petitioner's application for MSP benefits on [REDACTED] 2019. The Department does not dispute that Petitioner is eligible for MSP based on her circumstances. Petitioner is a Qualified Medicare Beneficiary, but coverage for this benefit begins the calendar month after the processing month. Petitioner was not an active recipient of MSP benefits on May 1, 2019 when the Department received her application for assistance. Although Petitioner is eligible for full MSP benefits, she is not entitled to have the Department pay her Medicare Part B premium for May of 2019, as directed by BEM 165. Petitioner is eligible to receive MSP benefits for June 2019, ongoing.

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 acted in accordance with Department policy when it denied Petitioner's MSP benefits application for the period from May 1, 2019 through May 31, 2019.

DECISION AND ORDER

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

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-Sanilac-Hearings
D. Smith
EQAD
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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