



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 28, 2019
MOAHR Docket No.: 19-007114
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 26, 2019, from Detroit, Michigan. The Petitioner was represented by her sister and Authorized Hearings Representative [REDACTED] (AHR). The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist and Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) Program and Medicare Savings Program (MSP) benefits?

FINDINGS OF FACT

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

1. In June 2018, the Department discovered via an Asset Detection and Petitioner confirmed with verifications a checking account with [REDACTED] with an account number ending in [REDACTED].
2. On April 4, 2019, the Department issued a Redetermination to Petitioner with a due date of May 6, 2019.

3. On April 24, 2019, the Department received the completed Redetermination from Petitioner in addition to copies of her [REDACTED] Checking account statements from February 15, 2019 through April 12, 2019 for an account ending in [REDACTED].
4. On June 3, 2019, the Department processed Petitioner's Redetermination and issued both a Verification Checklist (VCL) and Verification of Assets to Petitioner seeking proof of her [REDACTED] checking account ending [REDACTED] with a due date of June 13, 2019.
5. On June 11, 2019, Petitioner's AHR contacted the Department by phone and informed them that she would be unable to provide the requested proofs by June 13, 2019 because she had just received notice, was going out of town until the 17th, and needed to go to the bank to allow her access to the account; the Department employee advised her that everything would be fine.
6. On June 18, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that her Medical Assistance (MA) Program and Medicare Savings Program (MSP) benefits were closing effective August 1, 2019 for failure to return requested verifications.
7. On the same day, the Department requested an Asset Detection for Petitioner to determine her existing assets.
8. On June 22, 2019, the Department received the completed Asset Detection showing that Petitioner had two accounts listed with [REDACTED], one ending in [REDACTED], the other ending in [REDACTED]; the account ending in [REDACTED] had no balances listed for January 1, 2019, ongoing.
9. On June 28, 2019, the Department received Petitioner's request for hearing, through her AHR, disputing the closure of her MA and MSP benefits.

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 and her AHR dispute the Department's closure of Petitioner's MA and MSP benefits due to their failure to return requested verification of assets. Assets are used in determining SSI-Related MA eligibility. BEM 400 (April 2019), p. 1. Therefore, the Department's request for proof of assets was in accordance with Department policy. When the Department requests verification of an item, the Department is required to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. In MA and MSP cases, the Department is required to provide the client with ten calendar days to provide the requested verifications. Bam 130, p. 8. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended up to two times upon request if reasonable efforts were made by the client and the Department has attempted to assist. *Id.* Verifications are considered timely if received by the date they are due. *Id.* Case action notices are sent when a client indicates a refusal to provide a verification or the time period given has lapsed. *Id.*

In this case, Petitioner's AHR contacted the Department on June 11, 2019 and advised them that she had just received notice of the Department's request, that she was leaving town until June 17th, and that she had to visit the bank in person to obtain the verifications because she was listed as a payee on the account. Based upon this conversation, the Department should have construed the conversation as a request for an extension and extended the deadline until at least June 23, 2019, but instead the Department decided to close the case on June 18, 2019, one day after AHR returned to town. The Department did not act in accordance with Department policy when it closed Petitioner's MA and MSP benefits for failure to verify her checking account.

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 for failure to verify her checking account ending in [REDACTED].

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 effective August 1, 2019;
2. Redetermine Petitioner's MA and MSP eligibility;
3. Issue supplements to Petitioner or on her behalf for benefits not previously received; and,
4. Notify Petitioner in writing of its decision.

AM/tm



Amanda M. T. Marler

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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]