



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: February 21, 2020
MOAHR Docket No.: 19-013341
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 January 22, 2020 from Detroit, Michigan. Petitioner was represented by Authorized Hearing Representative [REDACTED], who is also Petitioner's mother. Petitioner's father, [REDACTED] also appeared on behalf of Petitioner. The Department of Health and Human Services (Department) was represented by Heather Gansemer, Family Independence Manager, and Linda Watson, Eligibility Specialist. During the hearing, a 20-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-20.

ISSUE

Does the undersigned Administrative Law Judge have jurisdiction over Petitioner's December 3, 2019 hearing request challenging the Department's decision to close Petitioner's Medicaid (MA) case, effective September 1, 2019?

Did the Department properly close Petitioner's Medicare Savings Program (MSP) benefits case, effective November 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 MSP benefits and MA coverage under the Freedom to Work (FTW) program.

2. During the relevant time period, Petitioner had earnings from employment. Exhibit A, p. 10.
3. On January 28, 2019, the Social Security Administration (SSA) issued to Petitioner a letter informing Petitioner that he was no longer considered disabled by the SSA due to a finding that he performed substantial work. Exhibit A, pp. 5-6.
4. On August 2, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA case under the FTW would be closing, effective September 1, 2019. The reason given was that Petitioner was no longer disabled. Exhibit A, pp. 7-9.
5. On October 14, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MSP case would be closing, effective November 1, 2019. Exhibit A, pp. 13-14.
6. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions.

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 submitted to the Department a [REDACTED], 2019 request for hearing objecting to two Health Care Coverage Determination Notices issued by the Department, one on August 2, 2019 and the other on October 14, 2019.

AUGUST 2, 2019 HEALTH CARE COVERAGE DETERMINATION NOTICE

Clients have the right to a hearing to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. Upon receiving a request for hearing, the Department will forward the matter to the Michigan Office of Administrative Hearings and Rules (MOAHR) for a hearing before an Administrative Law Judge (ALJ). The ALJ has jurisdiction to hear a case involving any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. BAM 600 (October 2018), pp. 5-7.

However, the ALJ only has jurisdiction to hear a timely and properly submitted request for hearing. BAM 600, p. 6, provides in relevant part as follows:

The client or [authorized hearing representative] has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days.

The Health Care Coverage Determination Notice informing Petitioner of the Department's determination of Petitioner's MA benefits, effective September 1, 2019, was issued on August 2, 2019. Petitioner requested a hearing on [REDACTED], 2019, beyond the 90-day time limit. Because Petitioner's hearing request was untimely with respect to that case action, whether or not the decision was correct is not an issue that this ALJ has the authority to hear or issue a decision upon. Thus, Petitioner's hearing request with respect to his challenge of the Department's August 2, 2019 Health Care Coverage Determination Notice is dismissed.

OCTOBER 14, 2019 HEALTH CARE COVERAGE DETERMINATION NOTICE

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.

Petitioner was not married. Thus, Petitioner's fiscal group size is one. BEM 211 (February 2019), p. 8. For a fiscal group size of one, the highest possible monthly income for eligibility is \$1,426, which amounts to 135% of the federal poverty limit plus a \$20 disregard for RSDI income.

Petitioner's earnings were evidenced by paycheck stubs from his employment and show that he earns approximately \$[REDACTED] every two weeks, which amounts to at least \$[REDACTED] per month. Petitioner had no deductible expenses. BEM 541 (January 2019). Thus, Petitioner's countable income of no less than \$[REDACTED] per month exceeded the limit for program eligibility of \$1,426. Accordingly, the Department properly closed Petitioner's MSP benefits case.

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.

DECISION AND ORDER

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

JM/tm



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

DHHS

Renee Olian
322 Stockbridge
Kalamazoo, MI
49001

Petitioner

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

Authorized Hearing Rep.

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

cc: MA- Deanna Smith; EQADHShearings