



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

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Date Mailed: February 4, 2020
MOAHR Docket No.: 19-013480
Agency No.: ██████████
Petitioner: ██████████

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 January 30, 2020 from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Angela Vaught-Henson. Donna Wallace, Payments Assistance Worker for the Department, observed the hearing.

ISSUE

Did the Department properly close Petitioner's State Supplemental Security Income Payment (SSP)?

Did the Department properly end Petitioner's Supplemental Security Income (SSI) Medical Assistance (MA) Program benefit?

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 September 7, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner notifying her that effective October 1, 2019, her MA benefits would end because she was not under 21, pregnant, a caretaker of a minor child, over age 65, blind, or disabled.
2. On November 21, 2019, the Department issued a Notice of State SSI Payment Change to Petitioner informing her that effective November 21, 2019, her SSP had

been canceled because the Social Security Administration (SSA) had notified the Department that she did not receive her regular first of the month SSI payment for three months.

3. On December 16, 2019, the Department received Petitioner's request for hearing disputing the Department's decision to close her SSP and SSI MA benefits because her monthly SSI payment had not changed.

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).

Medical Assistance (MA) Program

The 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.

Beginning with Petitioner's SSI MA benefit, the Department issued a HCCDN to Petitioner on September 7, 2019, which alerted her to the closure of her SSI MA benefit. In all cases, clients have 90 days from the date of the written notice of case action to request a hearing. BAM 600 (July 2019), p. 6. Petitioner's request for hearing as it relates to SSI MA was received by the Department on December 16, 2019. The deadline for submission of any request for hearing to dispute the closure of her SSI MA was December 6, 2019. Therefore, Petitioner's request for hearing was late and outside of the jurisdiction of Michigan Office of Administrative Hearings and Rules (MOAHR). Therefore, Petitioner's request for hearing as it relates to her **SSI MA** is **DISMISSED**.

State Supplemental Security Income Payment (SSP)

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Moving to the issue of Petitioner's SSP, the Department issued a notice to Petitioner that her SSP was closing because the Department had received notice that her SSI payment had ended. In reality, this was not the reason for Petitioner's SSP closure. Instead, the real reason was that according to the State Online Query (SOLQ), an

interface with the Social Security Administration accessible by the Department to aid it in determining a client's Social Security Benefit and Medicare participation, Petitioner was living in [REDACTED], Missouri. Since SSA and the Department believed Petitioner to be living in [REDACTED], Missouri, she was not eligible for SSP benefits in Michigan.

Although policy and federal regulations do not specifically require that an individual live in the state in which they receive an SSP, the requirement is inherent to the benefit. Federal regulations provide that each state has the opportunity to supplement the SSI payment and each state has a different determination of the supplemental benefit amount. 20 CFR 416.2001; 20 CFR 416.2015-416.2065. Since SSA believed Petitioner to be living in Missouri and not Michigan, it was appropriate for Petitioner's SSP to end as Missouri would be responsible for determining her SSP eligibility.

It is notable that the reason provided by the Department in the notice of closure was inaccurate; therefore, the Department violated policy which requires the Department to notify a client of actions taken by the Department, the *reason for the action*, a specific manual item which cites the legal base for the action or the regulation or law itself, as well as Petitioner's rights to request a hearing. BAM 220 (April 2019), pp. 2-3. However, because the result was the same and Petitioner was ultimately provided an explanation for the reason for the closure, the Department's failure to issue a proper notice was a harmless error.

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 SSP benefit.

DECISION AND ORDER

The portion of Petitioner's **SSI MA** request for hearing is **DISMISSED**.

The Department's decision is **AFFIRMED** as it relates to the **closure** of Petitioner's **SSP** benefit.

AMTM/jaf



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

Richard Latimore
MDHHS-Wayne-57-Hearings
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Petitioner

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