



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: June 4, 2020
MOAHR Docket No.: 19-013979
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 3-way telephone hearing was held on May 7, 2020, from Trenton, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Danielle Shanley, specialist, and Rhonda Legault, manager.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's eligibility for Medicaid and Medicare Savings Program (MSP).

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of April 2019, Petitioner was an ongoing recipient of Medicaid and MSP.
2. On an unspecified date, Petitioner reported to MDHHS a small increase in ongoing veteran's benefits.
3. On [REDACTED] 2019, Petitioner submitted a bank statement listing a deposit of [REDACTED]. Exhibit A, pp. 9-11.
4. On September 10, 2019, MDHHS mailed Petitioner a Verification Checklist requesting updated veteran's benefit income verification. Petitioner's due date was September 20, 2019, to return verification. Exhibit A, pp. 7-8

5. On September 23, 2019, MDHHS terminated Petitioner's Medicaid and MSP eligibility beginning November 2019 due to a failure to verify veteran's benefit income.
6. On December 17, 2019, Petitioner requested a hearing to dispute the terminations of Medicaid and MSP.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute termination of Medicaid and MSP. Exhibit A, pp. 12-13. A Health Care Coverage Determination Notice dated September 23, 2019, informed Petitioner of terminations of Medicaid and MSP beginning November 2019 due to a failure to verify unearned income. Exhibit A, pp. 4-6. MDHHS testified that Petitioner specifically failed to verify a small increase in veteran's benefits.

For adverse actions based on a client's failure to verify information, MDHHS must establish that verification was needed. It was not disputed that Petitioner reported an increase in veteran's benefits. For all programs, MDHHS counts the gross amount of veteran's pension or compensation as unearned income. BEM 503 (April 2019) p. 37. For all MA programs, MDHHS is to verify income when a change is reported.¹ *Id.*, p. 40. As a change in veteran's benefits must be verified, MDHHS properly sought verification of the change from Petitioner.

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* For MA, MDHHS is to allow the client 10 calendar days to provide the verification that is requested. *Id.*, p. 8. MDHHS may send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed. *Id.*

MDHHS mailed Petitioner a VCL on September 10, 2019, requesting proof of veteran's income. Exhibit A, pp. 7-8. The stated due date to return verifications was September 20, 2019. As of September 23, 2019, Petitioner had not returned verification. MDHHS

¹ Medicaid and MSP are both MA programs.

waited until September 23, 2019 before terminating Petitioner's Medicaid and MSP eligibility. As of the end of October 2019, Petitioner had not returned verification.

On [REDACTED] 2019, Petitioner submitted to MDHHS a bank statement which listed a deposit for her increased [REDACTED] benefits. Acceptable verification sources for VA income include an award letter. *Id.*, p. 42. A bank statement is not among the acceptable listed verification sources for veteran's benefits. MDHHS testified that bank statements are not acceptable because bank statements only verify net income; as noted above, gross veteran's benefits are counted. Thus, MDHHS properly rejected Petitioner's bank statement as acceptable verification.

Petitioner credibly testified that she was unable to submit an award letter to MDHHS because she rarely receives one. MDHHS must rely on the best verification available if verification cannot be obtained. Consideration was given to whether MDHHS should have relied on the bank statement rather than expecting an "acceptable" verification. Had Petitioner called MDHHS to state that she was unable to submit an updated verification, the burden would fall on MDHHS to prove that Petitioner had not submitted the best available verification; the evidence did not support that Petitioner made such a call. MDHHS testimony credibly indicated that Petitioner made no such call. Also, Petitioner was unresponsive to the benefit closure warning for several weeks. Petitioner received notice of termination on September 23, 2019 and acknowledged being unaware of termination until December 2019 (when she requested a hearing). Petitioner's delay in requesting a hearing is consistent with being unresponsive to the Verification Checklist.

Given the evidence, Petitioner failed to timely verify her veteran's benefits. Thus, MDHHS properly terminated Petitioner's Medicaid and MSP eligibility beginning November 2019.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's Medicaid and MSP eligibility beginning November 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki
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-Luce-Hearings
D. Smith
EQAD
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED], MI [REDACTED]