



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], MI [REDACTED]

Date Mailed: March 23, 2020
MOAHR Docket No.: 20-001440
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on March 19, 2020, from Lansing, Michigan. Petitioner was represented by her father and attorney Herbert Sparrow. The Department was represented by Eileen Kott and Denise Newsom.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) 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. On April 4, 2019, Petitioner was an ongoing Medical Assistance (MA) and Medicare Savings Program (MSP) recipient when the Department received her Redetermination (DHS-1010) form. Exhibit A, pp 19-26.
2. On April 11, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) addressed to Petitioner's current mailing address requesting verification of a bank account by April 22, 2019. Exhibit A, pp 27-30.
3. On April 29, 2019, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) or the Medicare Savings Program (MSP) as of June 1, 2019. Exhibit A, pp 31-34.

4. On June 25, 2019, the Department received another copy of Petitioner's Redetermination (DHS-1010) form. Exhibit A, p 37.
5. On June 25, 2019, the Department received verification of Petitioner's bank account. Exhibit A, pp 39-42.
6. On July 3, 2019, the Department received another copy of Petitioner's Redetermination (DHS-1010) form. Exhibit A, p 38.
7. Department records indicate that on July 3, 2020, the bank statement that was requested was received in Petitioner's electronic case file. Exhibit A, p 18.
8. On [REDACTED], 2019, the Department received Petitioner's application for Medical Assistance (MA) and Food Assistance Program (FAP) benefits. Exhibit A, pp 44-87.
9. On December 30, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting current verification of a bank account by January 9, 2020. Exhibit A, p 88.
10. Petitioner received Medicare Savings Program (MSP) benefits under the Qualified Medicare Beneficiary (QMB) category until May 31, 2019, and is eligible for those benefits from January 1, 2020, and ongoing. Exhibit A, p 90.
11. On December 30, 2019, the Department notified Petitioner that she was eligible for Medical Assistance (MA) benefits effective December 1, 2019, and Medicare Savings Program (MSP) benefits effective January 1, 2020. Exhibit A, pp 91-93.
12. On January 14, 2020, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits with a \$16 monthly allotment effective January 1, 2020, but not eligible for any food assistance in December of 2019. Exhibit A, pp 105-112.
13. On January 15, 2020, the Department notified Petitioner that she was not eligible for the Medicare Savings Program (MSP) under the Qualified Medicare Beneficiary (QMB) category effective December 1, 2019. Exhibit A, pp 97-99.
14. On January 21, 2020, the Department notified Petitioner that she was eligible for Medical Assistance (MA) effective December 1, 2019. Exhibit A, pp 100-103.
15. On January 27, 2020, the Department received Petitioner's request for a hearing. Exhibit A, pp 3-16

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.

The Medicare Savings Programs are SSI-related MA categories. There are three categories of Medicare Savings Program (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. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2018), pp 2-4.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for 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. Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2020), p 5.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2020), pp 6-7, 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 anywhere in DHS within the 90 days.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (January 1, 2020), pp 1-9.

On April 4, 2019, the Department initiated a routine review of Petitioner's eligibility for ongoing MA, and MSP benefits after receiving her Redetermination (DHS-1010) form. It was not disputed that Petitioner is disabled, that she receives social security benefits, and that those benefits are delivered to her on a debit card. The account holding Petitioner's social security benefits is considered a cash asset as defined by BEM 400, and on April 11, 2019, the Department requested verification of the balance of those cash assets. The Verification Checklist (DHS-3503) was addressed to Petitioner's current mailing address, and no evidence was presented on the record to rebut the presumption that it was received. No evidence was presented on the record that Respondent requested an extension to the due date to provide verification of assets. On April 29, 2019, the Department had not received the required verification of cash assets and sent Petitioner notification that she was not eligible for MA or MSP benefits effective June 1, 2019.

The Department received another copy of Petitioner's Redetermination form and verification of the cash assets on June 25, 2019, and July 3, 2019.

Reinstatement restores a closed program to active status without completion of a new application. Closed programs may be reinstated for complying with program

requirements before the negative action date. Department of Health and Human Services Bridges Administrative Manual (BAM) 205 (July 1, 2015), p 1.

The evidence supports a finding that Petitioner failed to provide the requested verification of cash assets by the due date, and failed to provide the verification before June 1, 2019, which was the date of benefit closure. Therefore, reinstatement of Petitioner's benefits as not appropriate as indicated in BAM 205.

The evidence presented on the record supports a finding that Petitioner's request for a hearing was not received within 90 days of the mailing of the written notice that benefits would be closed. Therefore, the Michigan Office of Administrative Hearing System (MOAHR) does not have jurisdiction over the closure of benefits effective June 1, 2019.

However, in the alternative, if it is determined that MOAHR has jurisdiction of the closure of Petitioner's benefits, the evidence supports a finding that the Department was acting in accordance with its policies when it closed Petitioner's benefits.

On [REDACTED], 2019, the Department received Petitioner's new application for assistance. Medicaid benefits are available as of the first of the month in which the client is eligible for MA benefits. Food assistance benefits are available as of the application date, except that prorated food benefits will not be issued if the prorated allotment is less than \$10. Medicare premium assistance under MSP are not available in the application month if the client meets the criteria for the QMB category, and clients are prohibited from requesting another category of benefits in order to get coverage sooner as directed by BEM 165.


On December 30, 2019, the Department notified Petitioner that she was eligible for MA benefits effective December 1, 2019. No testimony was presented on the record as to whether Petitioner has unpaid medical bills incurred before December 1, 2019, but Petitioner is entitled to request up to three months of retroactive Medicaid. The Department notified Petitioner that she is eligible for MSP benefits as of January 1, 2020, because December was the application month. On January 14, 2020, the Department notified Petitioner that she is eligible for FAP benefits but would not receive a FAP allotment of benefits for December based on the application date.

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 Medical Assistance (MA), Medicare Savings Program (MSP), and Food Assistance Program (FAP) benefits as of June 1, 2019, for failure to provide the Department with information necessary to determine her eligibility to receive benefits. The Department acted in accordance with Department policy when it processed Petitioner's December 30, 2019, application assistance and determined her eligibility date for Medical Assistance (MA), Medicare Savings Program (MSP), and Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
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

Dora Allen
14061 Lappin
Detroit, MI
48205

Wayne 76 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner


, MI

Authorized Hearing Rep.

Herbert Sparrow- via first class mail
408 Washington Rd
Grosse Pointe, MI
48230