



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]
[REDACTED]

Date Mailed: August 7, 2020
MOAHR Docket No.: 20-004329
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 telephone hearing was held on July 30, 2020, from Trenton, Michigan. Petitioner did not participate in the hearing. [REDACTED] Petitioner's daughter, testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Silvester Williams, supervisor.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Medicaid eligibility.

The second issue is whether MDHHS properly denied Petitioner's subsequent application for Medicaid.

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 January 2020, Petitioner was an ongoing Medicaid recipient.
2. On February 14, 2020, MDHHS mailed Petitioner notice that her Medicaid eligibility would end March 2020 due to a failure to return a Redetermination and/or required verifications.
3. On [REDACTED] 2020, Petitioner applied for Medicaid. Petitioner's application reported having three different pensions.
4. On March 17, 2020, MDHHS requested proof of Petitioner's pension income.

5. As of April 29, 2020, MDHHS had not received verification of Petitioner's pension income.
6. On April 29, 2020, MDHHS denied Petitioner's application due to Petitioner's failure to verify pension income.
7. On [REDACTED], 2020, Petitioner requested a hearing to dispute the termination of Medicaid beginning March 2020, as well as the denial of Petitioner's application dated [REDACTED], 2020.

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. MDHHS 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 a termination of Medicaid beginning March 2020. MDHHS credibly testified that Petitioner's Medicaid eligibility ended after Petitioner failed to return a properly mailed Redetermination form.¹ Though not discussed during the hearing, Petitioner's hearing request date raises a potential procedural obstacle.

A client's request for hearing must be received in the MDHHS local office within 90 calendar days following the date of the written notice of case action. BAM 600 (January 2020), p. 6. Generally, hearing requests must be submitted to MDHHS in writing, though Food Assistance Program benefit hearings may be made orally. *Id.*, p. 2.

MDHHS credibly testified, and without dispute, that written notice of Medicaid termination was issued to Petitioner on February 14, 2020. Petitioner requested a hearing on May 28, 2020. MDHHS received Petitioner's hearing request 104 days after written notice of termination was sent to Petitioner. Petitioner's hearing request exceeded the 90-day period to dispute the Medicaid benefit termination. Petitioner's hearing request will be dismissed concerning the dispute over Medicaid termination due to Petitioner's untimely request.

Petitioner also requested a hearing to dispute a denial of Medicaid after she reapplied. on March 2, 2020. Exhibit A, pp. 11-15. A Health Care Coverage Determination Notice

¹ MDHHS mails Redetermination forms to clients near the end of certified benefit periods (see BAM 210). Clients are expected to complete and return Redetermination forms, along with verifications, so that MDHHS can evaluate a client's eligibility for a new benefit period. In the present case, MDHHS alleged that Petitioner was sent a Redetermination form on January 4, 2020, and that Petitioner did not return the form to MDHHS before March 2020.

dated April 29, 2020, stated that Petitioner's application was denied due to a failure to verify unearned income.² Exhibit A, pp. 5-8.

For all programs, gross retirement income is countable. BEM 503 (January 2020) p. 29. For most Medicaid categories, MDHHS is to verify all countable income at application.³ *Id.*, p. 41.

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 Medicaid, 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.*

On her application dated [REDACTED], 2020, Petitioner reported receiving retirement benefits from three different sources. In response, MDHHS mailed Petitioner a VCL on March 17, 2020, requesting proof of Petitioner's pension incomes. Exhibit A, pp. 9-10. Petitioner was given until March 27, 2020, to return verifications. As of April 29, 2020, the date that MDHHS denied Petitioner's application, Petitioner had still not returned verifications of pension income. Petitioner's AHR did not deny any of these facts.

Petitioner's AHR credibly testified that verifications were eventually sent to MDHHS in June 2020. Unfortunately for Petitioner, no known MDHHS policy allows for resurrecting a denied application for Medicaid when verifications are received after the application is denied.

Given the evidence, MDHHS properly denied Petitioner's application dated [REDACTED], 2020, due to Petitioner failing to verify income. Petitioner's recourse is to reapply for Medicaid.⁴

² MDHHS testimony initially asserted that Petitioner additionally failed to verify assets. A failure to verify assets was not listed as a basis for denial on the written notice. Thus, no evidence was taken concerning whether Petitioner failed to verify assets.

³ Verification is not necessary for the Medicaid category of U19. This Medicaid category is for persons under 19 years and is not applicable to Petitioner.

⁴ Petitioner's AHR stated that a new application for Medicaid was already submitted to MDHHS.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely request a hearing to dispute a termination of Medicaid beginning March 2020. Concerning Petitioner's dispute over a termination of Medicaid, her hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application dated [REDACTED], 2020, requesting Medicaid. Concerning the denial of Petitioner's Medicaid application, the actions taken by MDHHS are **AFFIRMED**.

CG/tlf



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-Oakland-II-Hearings
BSC4 Hearing Decisions
EQAD
D. Smith
MOAHR

Authorized Hearing Rep.
- **Via First-Class Mail:**

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

Petitioner
- **Via First-Class Mail:**

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