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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: September 15, 2021
MOAHR Docket No.: 21-003183
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 telephonic hearing was held on August 17, 2021. Petitioner ██████████ appeared and represented herself. The Michigan Department of Health and Human Services (MDHHS or the Department) was represented by Autumn Garland, Assistance Payments Worker.

ISSUE

Did MDHHS properly close Petitioner's Medical Savings Program (MSP) case?

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 is a Medicare beneficiary. Beginning in January 2021, Petitioner was also receiving Group 2 Aged, Blind and Disabled (G2S) Medicaid with a monthly deductible.
2. On June 3, 2021, an MSP request was registered by MDHHS with an application date of ██████████, ██████████
3. On June 3, 2021, MDHHS sent Petitioner a verification checklist, which requested proofs to verify Petitioner's employment history as an adult home provider and for ██████████ (Employer). The proofs were due by June 14, 2021 (Exhibit A, pp. 7-8).
4. On June 4, 2021, MDHHS sent Petitioner another verification checklist, which requested "all paystubs received in May 2021" (Exhibit A, pp. 9-10). The

verification checklist indicated that proofs were due by June 14, 2021, and were needed for the purpose of determining Petitioner's eligibility for the Medicare Cost Share/Medical Savings Program (Exhibit A, p. 9).

5. Petitioner did not respond to the Verification Checklists by the June 14, 2021 deadline because Employer had moved and she was unable to obtain the requested information.
6. On June 15, 2021, MDHHS sent Petitioner a Health Care Coverage Determination Notice, which indicated that Petitioner was not eligible for the Medical Savings Program because her income exceeded the limit for the program and she failed to verify the requested information (Exhibit A, pp. 11-12).
7. On [REDACTED], [REDACTED] Petitioner requested a hearing on the on the MSP denial (Exhibit A, p. 4). On the request for hearing, she stated that she was unable to obtain verification from Employer, because it had change locations, and she was unable to find its new location or contact information.

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Medicare is a federal program administered by the Social Security Administration. MSP is a State program administered by the Department in which the State pays an eligible client's Medicare premiums, coinsurances, and deductibles, with coverage depending on the MSP program that the client is income-eligible for. BEM 165 (October 2020), pp 1-2; BAM 810 (January 2020), p. 1. All eligibility factors for the program must be met in the calendar month being tested. BEM 165, p. 2. There are three MSP categories: (1) QMB (Qualified Medicare Beneficiary), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2.

The MSP category a client is eligible for is dependent on the client's income: an individual who is unmarried and is therefore the only member of her MA fiscal group is eligible for QMB if her monthly net income is no more than \$1084.00 (effective April 1, 2020) or \$1094.00 (effective April 1 2021), SLMB if her net monthly income is between \$1084.01 and \$1296.00 (effective April 1, 2020) or \$1094.01-\$1308.00 (effective April 1, 2021), and ALMB if her net income is between \$1296.01 and \$1456.00 (effective April 1, 2021) or \$1308.01 and 1469.00 (effective April 1, 2021). RFT 242 (April 2021), pp. 1-2; BEM 165, pp. 2, 8.

In this case, Petitioner was receiving G2S Medicaid. The record shows that an MSP request was registered with the Department on [REDACTED], [REDACTED]. However, the Department did not act on this request until June 3, 2021. To process the MSP request, MDHHS requested verification of Petitioner's income as an adult home provider and from Employer. On June 3, 2021, it sent Petitioner a verification checklist requesting the last 30 days of earnings from Employer by June 14, 2021 with a comment that there were "missing pay period amounts – unearned income" (Exhibit A, pp. 7-8). On June 4, 2021, it sent Petitioner another verification checklist with a comment "please submit all paystubs received in May 2021" for Employer (Exhibit A, pp. 9-10).

At the hearing, MDHHS testified that it denied Petitioner's MSP request because Petitioner had not returned the verification checklists. The Health Care Determination Notice also indicated that Petitioner had excess income. (Exhibit A, pp. 11-12). It is undisputed that Petitioner did not return the verifications by the due date. However, MDHHS sent Petitioner two verification checklists dated one day apart, which asked for different, yet overlapping information. This action was likely to cause confusion. It is also unclear why the Department requested "all paystubs received in May 2021" from Employer for an MSP request that was dated January 1, 2021 (Exhibit A, pp. 9-10).

To obtain verifications, the Department must tell the client specifically what verification is required, how to obtain it and the due date. BAM 130 (January 2021), p. 3. Here, the Department sent Petitioner two separate requests, which created ambiguity regarding what information was needed. In addition, the local office must assist clients in obtaining verifications if they ask for help, and if the client is unable to obtain verifications despite diligent efforts, the Department may grant extensions. BAM 105 (July 2020) p. 15; BAM 130 (January 2021) p. 8. If the information is unavailable despite diligent attempts to obtain it, the Department is required to use the best information available or its best judgment when determining eligibility. BAM 130, p. 3.

Petitioner credibly testified that she was unable to obtain the requested information because the Employer had moved, and that she advised MDHHS of the situation by calling her worker. She also testified that she was no longer working for Employer and the last time she had received a paycheck from Employer was December 2020. Pursuant to Department policy, the local office should have helped Petitioner obtain the information and if they were unable to obtain the information, used the best available information.

Furthermore, it appears that Petitioner may have been eligible for MSP benefits prior to January 2021. Guidance provided by the Centers for Medicare and Medicaid Services (CMS) indicates that a client's MSP case cannot close unless due to the client's death, the client moving out of state, the client's request for closure, or the client not having been validly enrolled. Based on the evidence presented at the hearing, MDHHS did not establish that it had a proper basis to close Petitioner's MSP case if she in fact had an active case prior to January 2021.

Thus, the Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it closed Petitioner's Medical Savings Program (MSP) case.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reprocess Petitioner's eligibility for MSP and determine eligibility for each month from January 1, 2021 ongoing;
2. If Petitioner is eligible for MSP, reenroll Petitioner in the Medicare Part B Buy-In program from the date of eligibility; and
3. Notify Petitioner in writing of its decision.

LJ/tm



Linda Jordan
Administrative Law Judge

