



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: August 30, 2021
MOAHR Docket No.: 21-003258
Agency No.: ██████████
Petitioner: ██████████

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 hearing was held via telephone conference line on August 25, 2021. Petitioner did not participate. ██████████ ██████████ testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Rishard Thomas, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for 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. On ██████████, 2021, MDHHS received Petitioner's application requesting MSP. Petitioner reported having a checking account, savings account, and life insurance. An authorized representative (AR) was also reported.
2. On April 29, 2021, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting verification of the reported checking account, savings account, and life insurance by May 10, 2021.
3. On May 25, 2021, MDHHS denied MSP to Petitioner for failing to verify a checking account, savings account, and life insurance.
4. As of May 25, 2021, MDHHS had not mailed a VCL to Petitioner's AR.

5. On [REDACTED], 2021, Petitioner's AR, who was also Petitioner's AHR, requested a hearing disputing the denial of 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's AHR requested a hearing to dispute a denial of Petitioner's application requesting MSP benefits. Exhibit A, pp. 4-5. A Health Care Coverage Determination Notice dated May 25, 2021, stated that Petitioner's application was denied due to a failure to verify information. MDHHS testified that Petitioner specifically failed to verify a checking account, savings account, and life insurance.

The MA program includes subprograms for Medicaid and Medicare cost-sharing. BAM 810 (January 2018) p. 1. Medicare cost-sharing (aka MSP) is a program in which Medicaid pays for Medicare Part A premiums, Part B premiums, coinsurances, and deductibles for certain Medicaid recipients. *Id.*

For the MA program, 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.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) 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 and the client has not made a reasonable effort to provide it. *Id.*

MDHHS denied Petitioner's application after a VCL was sent to Petitioner on April 29, 2021, and Petitioner allegedly failed to return proof of income and assets by the due date of May 10, 2021. Exhibit A, pp. 29-30. For purposes of this decision, it will be accepted that Petitioner failed to verify income and assets by the VCL due date. Despite Petitioner's failure, MDHHS failed in its procedural requirements.

An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf. BAM 110 (April 2019), p. 9. The AR assumes all the responsibilities of a client. *Id.*, p. 10.

State agencies must permit applicants and beneficiaries to designate an individual or organization to act responsibly on their behalf in assisting with the individual's application and renewal of eligibility and other ongoing communications with the agency. 42 CFR 435.923(a)(1). Applicants and beneficiaries may authorize their representatives to perform the following:

- (1) Sign an application on the applicant's behalf;
- (2) Complete and submit a renewal form;
- (3) Receive copies of the applicant or beneficiary's notices and other communications from the agency;
- (4) Act on behalf of the applicant or beneficiary in all other matters with the agency. 42 CFR 435.923(b).

MDHHS testimony acknowledged that Petitioner's application dated [REDACTED] 2021 reported an AR. MDHHS also acknowledged that a VCL was not sent to Petitioner's AR. Petitioner's AR was entitled to receive the VCL as it was a communication to Petitioner from MDHHS.

Given the evidence, MDHHS failed to send a VCL to Petitioner's AR. By failing to send Petitioner's AR notice of the requested verifications, MDHHS failed to properly process Petitioner's application. Thus, the denial of MSP was improper. As a remedy, Petitioner is entitled to application reinstatement and reprocessing.¹

¹ With the hearing request, Petitioner's AHR submitted various documents which may have satisfied MDHHS's request for checking account, savings account, and life insurance. Thus, reprocessing Petitioner's application may not require sending a VCL to Petitioner's AR.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly processed Petitioner's application requesting MSP. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's application dated [REDACTED], 2021 requesting MSP benefits;
and
- (2) Reprocess Petitioner's application subject to the finding that MDHHS erred by not sending a VCL to Petitioner's AR.

The actions taken by MDHHS are **REVERSED**.

CG/tm



Christian Gardocki
Administrative Law Judge

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-Oakland2-Hearings
C. George
EQADHearings
BSC4
MOAHR

Via First-Class Mail:

Petitioner –

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Authorized Representative –

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