



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR



Date Mailed: January 16, 2024
MOAHR Docket No.: 23-007743
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 December 18, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Danielle Oshesky. Department Exhibit 1, pp. 1-27 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Medicare Savings Program benefit for failing to verify assets?

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 was receiving Medicare Savings Program benefit.
2. On September 5, 2023, Petitioner submitted redetermination paperwork.
3. On September 27, 2023, a Verification Checklist was sent to Petitioner requesting verification of assets.
4. On October 16, 2023, a Health Care Coverage Determination was sent to Petitioner informing her that her Medicare Savings Program benefit was closing on October 31, 2023, for failing to verify assets.

5. On October 24, 2023, Petitioner requested hearing disputing the closure of Medicare Savings Program.
6. Petitioner's Medicare Savings Program benefit was not reinstated after she requested hearing within 10 days.
7. Petitioner had a [REDACTED] Bank savings account that had a balance of \$.01. (Ex. 1, pp. 19-20)

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.

Timely Hearing Request

All Programs

A timely hearing request is a request received by the department within 10 days of the date the notice of case action was issued. When the 10th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, reinstate program benefits to the former level for a hearing request filed because of a negative action. For MA ONLY the department must maintain benefits if a beneficiary requests a hearing before the effective date of the action. For example, if a beneficiary is provided notice their Medicaid eligibility will be terminated effective 01/01/19, the beneficiary has until 12/31/18 to file a request and maintain their benefit. BAM 600.

Verification Sources

All Programs

Verification Sources of each BEM item lists acceptable verifications for specific eligibility factors. Other, less common sources may be used if accurate and reliable. Use a particular source if it is the most reliable (public records, data matches). Otherwise, use the one easiest to obtain. BAM 130.

Savings or Share Account

- Monthly statement.
- Written statement from financial institution.
- Telephone contact with financial institution.

BEM 400

In this case, Petitioner's Medicare Savings Program should have been reinstated pending hearing because she requested a hearing within 10 days. The Department representative did not give an adequate explanation regarding why the benefits were not reinstated. BAM 600.

In addition, the Department had reliable information that the bank account in question had \$.01 in the account. That reliable information was the Asset Detection Service-Asset Information printout. (Ex. 1, pp. 18-20) The Department routinely relies on this source to make determinations that recipients are over the asset limit and therefore it can and should be used to confirm that recipients are under the asset limits. The Department also could have contacted Petitioner's financial institution and confirmed that the bank account had a balance of \$.01 but they failed to do so. Therefore, the closure for failing to verify assets was improper and incorrect.

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 did not act in accordance with Department policy when it closed Petitioner's Medicare Cost Share benefit for failing to verify assets.


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. Reinstate Petitioner's Medicare Cost Share benefit going back to the date of closure.
2. Issue a supplement for any missed benefits.

AM/ml



Aaron McClintic
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 Electronic Mail:

DHHS
Amber Gibson
Ingham County DHHS
5303 South Cedar
Lansing, MI 48911
MDHHS-Ingham-Hearings@michigan.gov

Interested Parties
BSC2
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner
[REDACTED]
MI [REDACTED]