



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

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ACTING DIRECTOR

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Date Mailed: September 6, 2023
MOAHR Docket No.: 23-003899
Agency No.: 113230623
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 August 7, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Barbara Schramm, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) 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 was an ongoing recipient of MA benefits under the Ad Care category.
2. In connection with a redetermination/renewal, Petitioner's eligibility for MA benefits was reviewed.
3. On or around May 17, 2023, the Department sent Petitioner a Verification Checklist (VCL) instructing her to complete and return the enclosed application, as well as all proofs identified on the VCL by May 30, 2023. Among other verifications that were requested, the Department instructed Petitioner to submit asset records for herself and everyone living in her home, specifically current bank statements for all savings, checking, and money market accounts. The VCL further advised

Petitioner that if she fails to complete the review process, her MA will close effective June 30, 2023. Petitioner was informed to complete the enclosed application and return all verifications by May 30, 2023. (Exhibit A, pp. 7-9)

4. On or around [REDACTED] 2023, Petitioner submitted the completed application but failed to submit verification of bank account asset information. (Exhibit A, pp. 10-24)
 - a. On the application, Petitioner identified her husband, [REDACTED] as a household member but did not report any assets for any household members. (Exhibit A, pp. 10-24)
5. In processing the renewal application, the Department determined that a bank account associated with Petitioner's husband was previously on file for Petitioner's MA case. The Department determined that Petitioner failed to submit verification of all bank account assets by the due date identified on the VCL.
6. On or around June 1, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice, advising her that effective July 1, 2023, her MA case would be closed because verification of bank account asset information was not submitted. (Exhibit A, pp. 25-27)
7. On or around June 27, 2023, Petitioner requested a hearing disputing the Department's action with respect to her MA case. On her request for hearing, Petitioner indicated that she does not have a bank and that she receives her monthly income on a Direct Express card. (Exhibit A, pp. 3-6)

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.

In this case, the hearing was requested to dispute the Department's determination that Petitioner was no longer eligible for MA benefits due to a failure to return verification of requested bank account asset information.

Additionally, asset eligibility is required for MA coverage under SSI-related MA categories, which are categories providing MA coverage to individuals who are aged, blind or disabled. BEM 400 (April 2022), p. 1-2, 6; BEM 105 (January 2022), p. 1. This includes AdCare category. Checking and savings accounts are assets. Money held through a vendor pre-paid debit card such as Direct Express are also considered cash assets that must be verified. The Department will consider the value of cash assets (which includes money in checking, savings, and Direct Express accounts) in determining a client's asset eligibility for MA. BEM 400, pp. 14-16. An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. For jointly owned assets that have more than one owner, an asset is unavailable if all the following are true, and an owner **cannot** sell or spend his share of an asset: without another owner's consent, the other owner is not in the asset group, and the other owner refuses consent. BEM 400, pp. 12. For the AdCare category, the fiscal and asset group includes Petitioner and her spouse. BEM 211 (July 2019), pp. 6-9.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2023), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

For MA cases, clients are given 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, pp. 7-9. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, pp. 7-9. Verifications are considered to be timely if received by the date they are due. BAM 130, pp. 7-9. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 8-9.

At the hearing, the Department representative testified that in connection with the renewal of Petitioner's MA eligibility, a VCL was sent, instructing Petitioner to provide proof of bank account asset information by May 30, 2023. The Department representative testified that because Petitioner failed to timely submit verification of the savings/checking accounts previously on file from Northland bank for Petitioner's husband [REDACTED] who was considered a fiscal and asset group member, it sent the June 1, 2023, Health Care Coverage Determination Notice, advising of the closure/denial of Petitioner's ongoing MA case effective July 1, 2023. The Department representative testified that there was no request for extension submitted by Petitioner and no request for assistance with obtaining verifications. The Department representative further testified that upon receiving Petitioner's request for hearing, it was also discovered that Petitioner had a Direct Express account that she also failed to submit proof of.

Petitioner testified that when she received the VCL, it was a Memorial Day holiday and she was unable to submit the requested verifications by the due date. Petitioner testified that she was informed that if she could not submit all of the requested verifications, that she could submit the completed application form. With respect to the bank account asset information for her husband [REDACTED] Petitioner testified that he will not give her access to the bank statements. Petitioner testified that although she and her husband live in the same home, they are not a married couple, and have not gotten divorced because they cannot afford it. Petitioner asserted that her husband does not have any extra money in his bank account other than the income deposited from monthly Social Security. Petitioner asserted that she has no access to her husband's bank account. Petitioner further testified that when she was informed that she needed to submit verification of her Direct Express statement, she submitted a request, and now has a statement for May 2023.


Upon review, despite the explanations offered during the hearing, based on the above referenced policy, Petitioner and her husband [REDACTED] are considered fiscal and asset group members. Therefore, Petitioner is required to submit verification of all cash assets and bank account information for herself and her husband, as they live in the same home.

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 because Petitioner failed to establish that she timely submitted verification of all bank account asset information as required, the Department acted in accordance with Department policy when it closed her MA case effective July 1, 2023. Petitioner was advised that she is entitled to submit a new application for MA benefits and her eligibility will be reviewed.

DECISION AND ORDER

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

ZB/ml



Zainab A. Baydoun
Administrative Law Judge

