



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
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: October 30, 2023  
MOAHR Docket No.: 23-004311  
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 hearing was held via telephone conference on October 19, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Princess Ogundipe, supervisor.

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (MSP) eligibility.

### **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 June 15, 2023, MDHHS initiated a request for Petitioner of MSP benefits dated February 28, 2023.
2. On June 16, 2023, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of whole life insurance; MDHHS did not request proof of income.
3. On June 29, 2023, MDHHS denied MSP benefits to Petitioner beginning February 2023 due to excess income.
4. On July 25, 2023, Petitioner requested a hearing to dispute the denial of MSP benefits.

5. On August 1, 2023, MDHHS mailed Petitioner a VCL requesting proof of income by August 11, 2023.
6. On August 23, 2023, MDHHS denied MSP benefits to Petitioner due to Petitioner's failure to verify life insurance.
7. As of August 23, 2023, MDHHS had no known basis to request proof of whole life insurance from Petitioner.

### **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 requested a hearing to dispute a denial of MSP benefits. Exhibit A, pp. 3-6. The request for MSP benefits was initiated by MDHHS's Buy-In Unit on June 15, 2023, for a begin date of February 28, 2023. Exhibit A, pp. 12-13. MDHHS later denied MSP benefits due to Petitioner for being over the income limit. Exhibit A, pp. 16-18. MDHHS testimony acknowledged that the denial was improper, and it reconsidered Petitioner's MSP eligibility. MDHHS testified that Petitioner's MSP eligibility was again denied on August 23, 2023; the second denial was due to Petitioner's alleged failure to verify life insurance.

MSP is an SSI-related Medicaid category. BEM 165 (January 2018) p. 1. One of three different types of subprograms are available under MSP. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), p. 2. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low-Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if MDHHS funding is available. *Id.* The client's income determines the MSP subprogram issued (see RFT 242).

All countable assets must be considered in determining SSI-Related MA eligibility. BEM 400 (July 2023) p. 3 6. Assets include life insurance policies. *Id.*, p. 45. Only life insurances with a cash surrender value (CSV) are countable assets. *Id.*

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2023) p. 2. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* For MA, MDHHS is to

allow the client 10 calendar days to provide the verification that is requested. *Id.*, p. 7. MDHHS may send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed. *Id.*

MDHHS presented the VCL sent to Petitioner on June 16, 2023, requesting proof of whole life insurance. Exhibit A, pp. 14-15. MDHHS alleged that MSP was properly denied after Petitioner failed to return proof by the VCL due date of June 26, 2023.<sup>1</sup>

Petitioner did not deny failing to return proof of life insurance. Petitioner testified she has a life insurance policy, but it not whole life and has no CSV. Thus, Petitioner's testimony suggested there was nothing for her to verify or return. During the hearing, MDHHS was asked why it requested proof of whole life insurance from Petitioner, MDHHS failed to provide any basis for believing that Petitioner had whole life insurance other than its database was coded as such. MDHHS cannot request verification of an asset if it had no proper basis for believing the asset existed.

The evidence did not establish that Petitioner did not have whole life insurance. However, the burden is on MDHHS to establish a basis for believing that Petitioner had whole life insurance and MDHHS did not meet its burden.

Given the evidence, MDHHS did not establish a basis for requesting whole life insurance information from Petitioner. Without a basis for requesting information, MDHHS cannot justify a negative action based on a failure to verify and the denial of MSP based on a failure by Petitioner to verify whole life insurance must be reversed. As a remedy, Petitioner is entitled to a reprocessing of MSP benefits.

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<sup>1</sup> MDHHS also mailed Petitioner a VCL requesting proof of income by August 11, 2023. Exhibit A, pp. 23-26.

**DECISION AND ORDER**

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

- (1) Reinstate a request for MSP for Petitioner as of February 28, 2023; and
- (2) Process MSP subject to the finding that Petitioner did not fail to verify whole life insurance; and
- (3) Issue supplements and notice, if any, in accordance with policy.

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

CG/nr



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**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-Electronic Mail :**

**DHHS**

Yaita Turner  
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**MDHHS-Oakland-District-IV-  
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**Interested Parties**

Oakland 4 County DHHS  
BSC4  
D. Smith  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]