



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

[REDACTED], M [REDACTED]

Date Mailed: November 17, 2023
MOAHR Docket No.: 23-006433
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 November 2, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Tom Jones, supervisor.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medicaid and 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. As of July 2023, Petitioner was an ongoing Medicaid and MSP recipient with a benefit period certified through September 2023.
2. As of July 2023, Petitioner was over 65 years of age and had assets.
3. On July 5, 2023, MDHHS mailed Petitioner redetermination documents for Medicaid and MSP.
4. On August 5, 2023, Petitioner returned redetermination documents and reported having a savings and checking account.

5. On September 8, 2023, MDHHS terminated Medicaid benefits to Petitioner beginning October 2023 due to not being over the age of 65 years.
6. On September 8, 2023, MDHHS terminated MSP benefits to Petitioner beginning October 2023 due to a failure to verify assets.
7. As of September 8, 2023, MDHHS did not request verification of assets from Petitioner.
8. On September 15, 2023, Petitioner requested a hearing to dispute the termination of MSP benefits.
9. On October 28, 2023, MDHHS mailed Petitioner a VCL requesting proof of assets by November 7, 2023.
10. On October 30, 2023, MDHHS received verification of Petitioner's checking and savings account.

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 terminations of Medicaid and MSP benefits. Exhibit A, p. 3. A Health Care Coverage Determination Notice dated September 8, 2023, stated that Petitioner's Medicaid eligibility would end October 2023 due to not being aged or disabled. Exhibit A, pp. 10-13.

Medicaid is also known as MA. BEM 105 (April 2017) p. 1. The MA program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Disabled and/or aged individuals are potentially eligible to receive Medicaid under the SSI-related category of AD-Care.¹ It was not disputed that Petitioner was aged (i.e.,

¹ See BEM 163 for eligibility factors.

over the age of 65 years). MDHHS acknowledged that it erroneously considered non-aged in terminating Petitioner's Medicaid eligibility. As a remedy, MDHHS will be ordered to reprocess Petitioner's Medicaid eligibility. A Health Care Coverage Determination Notice dated September 8, 2023, stated that Petitioner's MSP eligibility would end October 2023 due to a failure to verify assets. Exhibit A, pp. 10-13.

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 a VCL sent to Petitioner on October 28, 2023, requesting verification of checking and savings account balances. Exhibit A, pp. 6-7. MDHHS acknowledged it should have sent Petitioner a VCL before terminating Petitioner's MSP eligibility on September 8, 2023. MDHHS also acknowledged that Petitioner complied with the VCL by returning proof of assets two days after the VCL was sent. The evidence failed to establish that MDHHS properly terminated Petitioner's MSP benefits due to a failure to verify assets.

Given the evidence, MDHHS improperly terminated Petitioner's MSP benefits. As a remedy, MDHHS will be ordered to reprocessed Petitioner's MSP eligibility beginning October 2023.²

² MDHHS testified that Petitioner's Medicaid and MSP eligibility was approved on the date of hearing. However, MDHHS was unable to send corroboration of its testimony. Under the circumstances, it is apt to order MDHHS to process Medicaid and MSP to ensure it is completed.

DECISION AND ORDER

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

- (1) Reprocess Petitioner's Medicaid eligibility beginning October 2023 subject to the finding that Petitioner is an aged individual.
- (2) Process Petitioner MSP eligibility beginning October 2023 subject to the finding that Petitioner did not fail to verify assets; and
- (3) Issue supplements and notice, if any, in accordance with policy.

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

CG/nr



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

Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested Parties

Oakland 3 County DHHS
BSC4
D. Smith
EQAD
MOAHR

Via-First Class Mail :

Petitioner

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