



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], MI [REDACTED]

Date Mailed: November 29, 2023
MOAHR Docket No.: 23-006591
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 line on November 15, 2023. Petitioner did not participate and was represented. [REDACTED] [REDACTED] Petitioner's father, participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Caitlin Dodge, manager.

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. As of June 2023, Petitioner was an ongoing recipient of MSP.
2. On June 5, 2023, MDHHS mailed Petitioner redetermination documents concerning MSP benefits with a due date of July 5, 2023.
3. On August 18, 2023, MDHHS initiated termination of Petitioner's MSP benefits beginning September 2023 due to Petitioner's failure to return redetermination documents.

4. On September 28, 2023, Petitioner returned to MDHHS redetermination documents.
5. On September 28, 2023, Petitioner's AHR requested a hearing to dispute the termination of MSP benefits.

CONCLUSIONS OF LAW

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA 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 termination of MSP benefits. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated August 18, 2023, stated that Petitioner's MSP eligibility would end September 2023 due to Petitioner's failure to return a Redetermination form. Exhibit A, pp. 29-31.

For all programs, MDHHS must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2022) p. 1. The process includes a thorough review of all eligibility factors.¹ *Id.* For all programs, the MDHHS mails a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. A Redetermination form is considered complete when all sections are completed. *Id.* p. 11. MDHHS sends timely notice of closure if documents are not timely returned. *Id.*, p. 17. MA benefits stop at the end of the benefit period unless a renewal is completed, and a new benefit period is certified. *Id.*, p. 4.

Petitioner was an MSP recipient with a benefit period certified through August 2023. MDHHS sent Petitioner a Redetermination form for MSP benefits on June 5, 2023. Exhibit A, pp. 17-25. Petitioner returned the renewal documents on September 28, 2023. Exhibit A, pp. 6-12. Notably, Petitioner's submission was after the closure notice mailing and the certified benefit period.² MDHHS initially contended that MSP eligibility properly ended due to Petitioner's tardy Redetermination form submission. During the hearing, MDHHS acknowledged that a recent policy change renders Petitioner submission to be timely.

¹ For Medicaid, an annual review of all eligibility programs is called a "renewal". For all other programs, the process is a "redetermination". BAM 210 (October 2019) p. 1.

² Petitioner testified he did not return the Redetermination form sooner because it was not received. For purposes of this decision, it will be accepted that Petitioner did receive the Redetermination packet.

Economic Stability Administration (ESA) Memorandum 2023-25 dated May 10, 2023 (revised June 28, 2023) states that MA redetermination forms received after closure but within 90 days are to be processed back to the closure date. The memo does not clarify when the 90 days begins, but 90 days from the redetermination due date is the most sensible interpretation. Respondent's redetermination due date was July 5, 2023, Respondent returned the redetermination form within 90 days.

Given the evidence, Respondent returned MSP redetermination documents to MDHHS within 90 days of the redetermination due date. Given ESA Memorandum 2023-25, Respondent is entitled to a reprocessing of MSP back to the closure month of September 2023.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to reprocess Petitioner's 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 MSP eligibility beginning September 2023 subject to the finding that Petitioner submitted redetermination documents within 90 days of the redetermination due date; and
- (2) Issue notice and supplements, 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 :

Authorized Hearing Rep.

[REDACTED], MI [REDACTED]

Petitioner

[REDACTED], MI [REDACTED]