



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]
[REDACTED], MI [REDACTED]

Date Mailed: February 6, 2024
MOAHR Docket No.: 23-007086
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 January 11, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Nisan Fortson, specialist.

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. On June 5, 2023, Petitioner submitted to MDHHS redetermination documents for Medicaid and MSP reporting gross RSDI of \$989 per month.
2. As of June 2023, MDHHS possessed a State Online Query (SOLQ) report stating that Petitioner was eligible to receive \$989 in gross Retirement, Survivors, Disability Insurance (RSDI) benefits, but received only \$964 in monthly RSDI.
3. On June 6, 2023, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting by June 16, 2023, an award letter from the Social Security Administration (SSA) to explain the difference in Petitioner's gross RSDI and

RSDI payments. The VCL also stated that acceptable verification may include an account statement from where RSDI is deposited.

4. On June 14, 2023, Petitioner submitted to MDHHS multiple bank statements listing several \$964 monthly deposits from SSA.
5. On June 23, 2023, MDHHS terminated Petitioner's Medicaid and MSP eligibility, effective August 2023, due to Petitioner's alleged failure to verify RSDI.
6. On October 17, 2023, Petitioner requested a hearing to dispute the terminations of Medicaid and 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 requested a hearing to dispute a termination of Medicaid and MSP benefits. Exhibit A, pp. 3-4. A Health Coverage Determination Notice dated June 23, 2023, stated that MDHHS terminated Petitioner's Medicaid and MSP eligibility beginning August 2023 due to Petitioner's failure to verify unearned income; MDHHS testimony clarified that Petitioner specifically failed to verify RSDI.¹ Exhibit A, pp. 30-33.

For all programs, MDHHS must verify income from RSDI at redetermination. BEM 503 (January 2023) p. 43. Acceptable verification of RSDI includes an SOLQ or award letter. *Id.*, p. 45. MDHHS is to use available electronic methods such as an SOLQ to verify income. *Id.* When electronic verification is not available or inconsistent with client statement, the client has primary responsibility for obtaining verification. *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.*

¹ The notice also stated that Petitioner failed to verify assets. During the hearing, MDHHS did not allege this as a basis to justify closure. Thus, it will not be considered as a basis.

MDHHS testimony acknowledged it had an SOLQ verifying that Petitioner received \$989 in gross monthly RSDI.² MDHHS explained the SOLQ also indicated that Petitioner received only \$964 in monthly RSDI.³ Because of the \$25 discrepancy, MDHHS mailed Petitioner a VCL on June 6, 2023, requesting proof of RSDI by June 16, 2023. Exhibit A, pp. 40-42. The VCL stated that examples of acceptable verification included an award letter from SSA.

Petitioner responded to the VCL by returning to MDHHS on June 14, 2023, multiple account statements which listed several \$964 monthly deposits from SSA. Exhibit A, pp. 34-39. MDHHS contended that Petitioner's submission was unacceptable because it failed to explain why Petitioner received less than the full gross RSDI amount. Notably, a comment on the VCL stated that an account statement where the RSDI was deposited was acceptable verification. Thus, Petitioner's submission of account statements timely complied with precisely what MDHHS requested.

Given the evidence, Petitioner complied with the VCL dated June 6, 2023. Thus, MDHHS improperly terminated Petitioner's Medicaid and MSP eligibility beginning August 2023. As a remedy, Petitioner is entitled to a reprocessing of Medicaid and MSP eligibility beginning with the month of closure.

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) Redetermine Petitioner's Medicaid and MSP eligibility, effective August 2023, subject to the finding that Petitioner did not fail to timely return a requested verification of RSDI;
- (2) Issue benefit supplements and notice, if any, in accordance with policy.

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

CG/nr



Christian Gardocki
Administrative Law Judge

² Petitioner reported the same income on redetermination documents submitted to MDHHS on June 5, 2023. Exhibit A, pp. 43-49.

³ Petitioner testified that he received less than the full gross RSDI amount due to recoupment by SSA.

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
Keisha Koger-Roper
Wayne-District 31 (Grandmont)
17455 Grand River
Detroit, MI 48227
**MDHHS-Wayne-31-Grandmont-
Hearings@Michigan.gov**

Interested Parties
Wayne 31 County DHHS
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
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