



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: February 6, 2024
MOAHR Docket No.: 23-007915
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 18, 2024. Petitioner appeared and was represented.¹ [REDACTED] [REDACTED] Petitioner's son, testified and participated as Petitioner's authorized hearing representative (AHR).² The Michigan Department of Health and Human Services (MDHHS) was represented by Lori Turner, specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) 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 August 2023, Petitioner was an ongoing recipient of Medicaid and Medicare Savings Program (MSP) with a benefit period certified through October 2023.
2. On an unspecified date, Petitioner timely returned to MDHHS redetermination documents and reported ongoing pension income.

¹ Petitioner participated in the hearing only to give verbal consent that her son may participate as an authorized hearing representative (AHR).

² Petitioner's son was also sworn in as an Arabic-English translator when he asked his mother if he could participate as her AHR.

3. On September 19, 2023, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of pension income by September 29, 2023.
4. On an unspecified date in September 2023, Petitioner timely returned to MDHHS a tax document listing Petitioner's retirement income.
5. On September 30, 2023, MDHHS initiated termination of Petitioner's Medicaid and MSP eligibility beginning November 2023 due to Petitioner's alleged failure to verify pension income.
6. On October 30, 2023, Petitioner requested a hearing to dispute the closure of Medicaid and MSP benefits. Petitioner's hearing request stated that income documents were returned.

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 MA benefits. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated September 30, 2023, stated that Petitioner's Medicaid and MSP eligibility would end November 2023 due to a failure to return verification of income. MDHHS clarified that Petitioner specifically failed to timely return proof of retirement income.

For MA benefits, countable unearned income is to be verified at redetermination. BEM 503 (January 2023) p. 43. For MA benefits, retirement income is countable. *Id.*, p. 29.

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 mailed Petitioner a VCL on September 19, 2023, requesting proof of retirement income by September 29, 2023. Exhibit A, pp. 12-13. During the hearing, MDHHS checked Petitioner's electronic case file (ECF) and testified that the only documentation

it received from Petitioner after September 2, 2023 was the hearing request and a recently submitted Change Report.

Petitioner's son testified that he assists his father with returning documents to MDHHS. Petitioner's son further testified that in September 2023 he mailed MDHHS a copy of a W2 listing Petitioner's retirement income.

Petitioner's son's testimony was consistent with the hearing request which stated that income documents were mailed. Generally, a claim of timely sending MDHHS documents is more credible when it is repeated in the hearing request. Though MDHHS credibly testified that Petitioner's pension documents were not uploaded into Petitioner's ECF, it is possible that MDHHS misplaced the documents and/or uploaded them to an incorrect case.

Given the evidence, it is more likely than not that Petitioner timely returned retirement income documents. Thus, MDHHS improperly terminated Petitioner's MA eligibility based on a failure to timely return retirement income documents. As a remedy, MDHHS is to reprocess Petitioner's MA eligibility which may include again requesting retirement income documents if still needed.

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 November 2023, subject to the finding that Petitioner did not fail to timely return verification of retirement income; 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
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
**MDHHS-Wayne-17-
hearings@michigan.gov**

Interested Parties
Wayne 17 County DHHS
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

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