



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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: February 9, 2024
MOAHR Docket No.: 23-008633
Agency No.: [REDACTED]
Petitioner: [REDACTED]

[REDACTED]
MI [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 telephone hearing was held on February 5, 2024, from Detroit, Michigan. Petitioner was represented by his mother/legal guardian [REDACTED] who served as Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Jacob Frankmann, Assistance Payments Supervisor.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was previously receiving Supplemental Security Income (SSI) and thus, approved for MA for SSI Recipients. On an unverified date, Petitioner's SSI ended, and he began receiving Retirement Survivors Disability Insurance (RSDI) benefits.
2. On or around August 9, 2023, the Department sent Petitioner an SSI-Terminated Medicaid Coverage letter, informing him that the Social Security Administration (SSA) notified the Department that his SSI benefit stopped. As a result, Petitioner was now receiving SSI-Terminated MA coverage and the Department was required to determine if he was eligible for any other type of MA or Medicare Savings Program (MSP) coverage by conducting a review. The letter further

informed Petitioner that he was to complete and return the enclosed application (DHS 1426), the enclosed Health Care Coverage Supplemental Questionnaire (Questionnaire), and return all requested proofs listed on the forms by September 11, 2023, otherwise his MA benefits would be cancelled. (Exhibit A, pp. 5-9)

3. On or around August 30, 2023, the Department received a completed Questionnaire and bank statements from Petitioner. The Department asserted that Petitioner failed to submit the DHS 1426 application.
4. On or around October 20, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice, informing him that effective November 1, 2023, his MA case would be closed. (Exhibit A, pp. 10-12)
5. On or around November 16, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice, informing him that effective December 1, 2023, his MSP case would be closed. (Exhibit A, pp. 13-15)
6. On or around November 22, 2023, a hearing was requested on Petitioner's behalf disputing the closure of his MA and MSP cases. (Exhibit A, pp. 3-4)

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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.

MSP are SSI-related MA categories. There are three MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low-Income Beneficiaries (ALMB). BEM 165 (October 2022), p. 1. QMB is a full coverage MSP that pays Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them), Medicare coinsurances, and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, pp. 1-2. Income is the major determiner of category.

Additionally, Supplemental Security Income (SSI) is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. The Social Security Administration (SSA)

determines SSI eligibility. BEM 150 (July 2021), p. 1. SSI recipients are eligible for MA benefits, provided certain criteria are met. The Department administers MA for SSI recipients, including, a continued MA eligibility determination when SSI benefits end. BEM 150, p. 1. When SSI benefits stop, the Department is to evaluate the reason based on the SSA's negative action code and either: close MA-SSI if SSI stopped for a reason that prevents continued MA eligibility (for example, death, moved out of state); or transfer the case to the MA-Terminated SSI Termination (SSIT) type of assistance and set a redetermination date for the second month after the transfer to allow for an ex parte review. BEM 150, p.6.

An ex parte review (see glossary) is required before MA closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115, BAM 210, and 220. BEM 150, pp. 6-7. The Department is to initiate a redetermination by sending the client a packet which includes an assistance application (DHS 1426) and a verification checklist (VCL). The Department then processes the application, initiates interview and intake and determines eligibility after sending out the appropriate disability forms and documenting all factors including disability and blindness. BEM 150, p. 7. When the ex parte review shows that an MA recipient is eligible for MA under another category, the Department must change the coverage. BAM 220 (November 2023), pp. 19-20. If the client is not eligible for any type of MA, the Department sends timely notice of the MA case closure. BEM 150, p. 7; BAM 220, pp. 19-20.

In this case, the Department representative testified that Petitioner's MA eligibility was due for review, as his SSI benefits were terminated, and he began receiving RSDI from the SSA. The Department representative testified that although Petitioner timely submitted the Questionnaire on August 30, 2023, because Petitioner did not submit a completed DHS 1426 application, his ongoing MA eligibility could not be determined. The Department initiated the closure of Petitioner's MA and MSP cases by sending the October 20, 2023, and November 16, 2023, Health Care Coverage Determination Notices referenced above. At the hearing, Petitioner's AHR testified that she only submitted the Questionnaire because she did not receive any other documents for completion from the Department. Petitioner's AHR asserted that a DHS 1426 application was not included with the SSI Termination Letter and that the only document she received to complete and return was the Questionnaire. After reviewing the Bridges system and correspondence history, the Department representative conceded that there was no record of the DHS 1426 application ever being sent to Petitioner for completion with the Questionnaire and other ex parte review related documents. As a result, the closure of Petitioner's MA and MSP cases based on a failure to return the application and complete a redetermination/exparte review is improper.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not

act in accordance with Department policy when it closed Petitioner's MA and MSP cases.


DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's MA eligibility under the most beneficial category for November 1, 2023, ongoing;
2. Redetermine Petitioner's MSP eligibility under the most beneficial category for December 1, 2023, ongoing;
3. If eligible, provide MA and MSP coverage to Petitioner for any MA and MSP benefits he was entitled to receive but did not from November 1, 2023, ongoing, and
4. Notify Petitioner in writing of its decisions.

ZB/ml



Zamab A. Baydoun
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
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4
M Holden
B Cabanaw
N Denson-Sogbaka

Via First Class Mail:

Authorized Hearing Rep.

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

Petitioner

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