



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
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: March 22, 2024
MOAHR Docket No.: 23-009893
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 February 26, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) did not participate in the hearing despite being given at least 15 minutes from the scheduled hearing time to call.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medicaid and Medicare Savings Program (MSP) benefits.

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 November 2023, Petitioner was an ongoing recipient of Medicaid and MSP benefits.
2. As of November 2023, Petitioner was over 65 years of age.
3. On December 9, 2023, MDHHS terminated Petitioner's Medicaid eligibility beginning December 2023 due to Petitioner not being over 65 years of age.
4. On an unspecified date, MDHHS terminated Petitioner's MSP eligibility.

5. On December 20, 2023, Petitioner requested a hearing to dispute the termination 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 terminations of Medicaid and MSP. Exhibit A, pp. 3-4. Concerning Medicaid, a Health Coverage Determination Notice dated December 9, 2023, stated that MDHHS terminated Petitioner's Medicaid eligibility beginning December 2023 due to Petitioner not being any of the following: pregnant, under 19 years of age over 65 years of age, disabled, blind, or a caretaker to a minor child.

Medicaid is also known as MA. BEM 105 (October 2023) 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 (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

The stated reason on the notice for MA termination suggests that Petitioner is ineligible for all MA categories except HMP. However, Petitioner credibly testified he is 76 years old. MDHHS did not participate in the hearing to suggest otherwise. As a 76-year-old, Petitioner is potentially eligible for MA benefits under AD-Care (see BEM 163). MDHHS presented no evidence to justify why it failed to evaluate Petitioner for MA under the AD-Care category.

Given the evidence, MDHHS improperly terminated Petitioner's Medicaid eligibility beginning December 2023. As a remedy, Petitioner is entitled to a reinstatement of Medicaid benefits.

Petitioner also requested a hearing to dispute a termination of MSP benefits. A Health Care Coverage Determination Notice dated November 14, 2023, stated that Petitioner was ineligible for MSP benefits beginning December 2023 due to failing to verify information.

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 did not participate in the hearing to present evidence supporting a termination of MSP based on Petitioner's alleged failure to verify information. Thus, it is not known what MDHHS alleges that Petitioner did not verify, whether a VCL was properly mailed, and/or whether Petitioner responded to the VCL. MDHHS failed to establish that Petitioner failed to verify information.

Given the evidence, MDHHS failed to establish it properly terminated Petitioner's MSP eligibility. As a remedy, Petitioner is entitled to a reinstatement of MSP benefits.

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) Reinstate Petitioner's Medicaid eligibility beginning December 2023 subject to the finding that MDHHS failed to establish that Petitioner was not over the age of 65 years;
- (2) Reinstate Petitioner's MSP eligibility beginning December 2023 subject to the finding that MDHHS failed to establish that Petitioner failed to verify information; and
- (3) 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

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
Dora Allen
Wayne-Gratiot/Seven-DHHS
4733 Conner Suite G 7 Lappin
Detroit, MI 48215
**MDHHS-Wayne-76-
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Interested Parties
Wayne 76 County DHHS
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Via-First Class Mail :

Petitioner
[REDACTED], MI [REDACTED]