



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



Date Mailed: March 26, 2024
MOAHR Docket No.: 24-001318
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 on March 21, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Jamila Goods, specialist.

ISSUES

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 December 14, 2023, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's savings bonds by December 26, 2023.
2. On December 19, 2023, Petitioner submitted to MDHHS a statement that he had no savings bonds.
3. As of January 2024, MDHHS had no known basis to believe that Petitioner had any savings bonds.
4. On an unspecified date, MDHHS terminated Petitioner's Medicaid eligibility beginning January 2024.

5. On February 5, 2024, Petitioner requested a hearing to dispute the termination of Medicaid and MSP benefits.
6. On February 7, 2024, MDHHS terminated Petitioner's MSP eligibility beginning January 2024 due to excess income.

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 MSP and Medicaid benefits.¹ Exhibit A, pp. 3-5. A Health Coverage Determination Notice dated February 5, 2024, stated that MDHHS terminated Petitioner's MA eligibility beginning January 2024 due to excess income. Exhibit A, pp. 6-8. During the hearing, MDHHS acknowledged that excess income was an improper basis for MA termination. Instead, MDHHS documentation stated that Petitioner's MSP eligibility ended January 2024 due to a failure to verify assets. Exhibit A, p. 12 MDHHS testified that Petitioner's Medicaid also ended January 2024 due to a failure to verify assets. MDHHS specified that Petitioner failed to verify savings bond amounts.

For SSI-related MA categories, assets must be verified.² BEM 400 (January 2024) p. 1. Assets may include savings bonds. *Id.*, p. 27.

Upon certification of eligibility results, the MDHHS database automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (November 2023) p. 2. A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

¹ Petitioner seemed to request a hearing two days before MDHHS sent notice of MSP termination. The evidence did not explain how Petitioner knew of MSP termination before MDHHS sent notice.

² See BEM 105 for the difference between MAGI and SSI- related MA categories. Presumably, Petitioner received Medicaid under an SSI-related category based on receipt of Medicare benefits and income from disability.

MDHHS provided no evidence that it sent Petitioner notice stating that Medicaid or MSP was terminated due to a failure to verify assets. Thus, MDHHS issued improper notice by failing to cite a proper reason and specific manual item in terminating Petitioner's MA benefits. MDHHS cannot terminate MA benefits for a reason not stated or cited on the notice of termination.

The evidence established that MDHHS procedurally failed to properly terminate Petitioner's Medicaid and MSP eligibility. For good measure, the benefit terminations were also faulty for substantive reasons.

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 presented a VCL dated December 14, 2023, stating that Petitioner had until December 26, 2023, to verify savings bond information.³ Exhibit A, pp. 22-23. It was not disputed that Petitioner submitted to MDHHS a statement on December 15, 2023, stating he had no savings bonds. MDHHS seemed to contend that Petitioner's statement was unacceptable because he failed to verify the amount of savings bonds. MDHHS's contention would only be persuasive if it established that Petitioner had any savings bonds. MDHHS testimony acknowledged it had no such evidence. MDHHS additionally acknowledged it had no evidence that Petitioner reported having savings bonds. The evidence failed to establish that Petitioner failed to verify assets. As a remedy, Petitioner is entitled to a reinstatement of Medicaid and MSP benefits.

³ MDHHS sent another VCL on February 7, 2024, requesting savings bond information by February 20, 2024. Exhibit A, pp. 13-14. The VCL seemed to correspond to a benefit application later filed by Petitioner.

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 MA 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 and MSP eligibility beginning January 2024, subject to the findings that Petitioner did not have excess income for either program and that Petitioner did not fail to verify assets; and
- (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

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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties
Wayne 19 County DHHS
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner

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