



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
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: May 8, 2024
MOAHR Docket No.: 24-003425
Agency No.: [REDACTED]
Petitioner: [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 May 6, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Angelica Blair, Eligibility Specialist.

ISSUE

Did the Department properly process 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. Petitioner was previously receiving Supplemental Security Income (SSI) from the Social Security Administration (SSA) and thus, approved for MA for SSI Recipients. On an unverified date, Petitioner's SSI ended, and she began receiving Retirement Survivors Disability Insurance (RSDI) benefits.
2. Petitioner was previously approved for Medicare Savings Program (MSP) benefits.
3. On or around March 18, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice), advising her that effective April 1, 2024, her MA and MSP cases would be closed because she failed to return a redetermination and because she failed to meet program requirements. (Exhibit A, pp. 5-8)

4. On or around March 27, 2024, Petitioner requested a hearing disputing the Department's actions with respect to her MA and MSP benefits.

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 (January 2024), 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 exparte 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 will initiate an automated process for the exparte review in MA Terminated SSI Medicaid cases. BEM 150, pp.6-7. 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 and MSP eligibility was due for review, as the Department became aware that Petitioner was no longer receiving SSI and began receiving RSDI from the SSA. The Department testified that Petitioner's MA coverage was transferred to the MA SSIT category from January 1, 2024, through March 31, 2024, and that effective April 1, 2024, her MA and MSP cases were closed. The Department notified Petitioner of the case closure effective April 1, 2024, through the Health Care Coverage Determination Notice dated March 18, 2024.

Although the Notice indicates that Petitioner failed to return a redetermination, the Department could not identify when the redetermination/application forms were sent to Petitioner for completion. It was also unclear whether the Department initiated a thorough ex parte review of Petitioner's potential eligibility for all MA programs. It was established that Petitioner submitted an application to the Department on March 27, 2024; however, it was unclear whether the Department had sent Petitioner the application to be completed as part of the ex parte review process or if Petitioner completed the application on her own, as her MA coverage was terminated. The Department confirmed that an application was received from Petitioner on or around March 27, 2024, and as of the hearing date, an eligibility determination had not been issued. The Department asserted that Petitioner failed to submit proof of income and assets, however, the Department did not present any verification checklist or similar request for verification sent to Petitioner and did not identify the due date of the verifications. Upon review, the closure of Petitioner's MA and MSP cases based on a failure to return the application and complete a redetermination/exparte review was not supported by the evidence presented.

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 April 1, 2024, ongoing;
2. Redetermine Petitioner's MSP eligibility under the most beneficial category for April 1, 2024, ongoing;
3. If eligible, provide MA and MSP coverage to Petitioner for any MA and MSP benefits she was entitled to receive but did not from April 1, 2024, ongoing, and
4. Notify Petitioner in writing of its decisions.

ZB/ml



Zainab 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
Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089
MDHHS-Macomb-20-Hearings@michigan.gov

Via First Class Mail:

Interested Parties
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Petitioner

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