



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

Date Mailed: May 28, 2024
MOAHR Docket No.: 24-003831
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 May 15, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Avery Smith, supervisor.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (MSP) eligibility.

The second issue is whether MDHHS properly terminated Petitioner's Medicaid 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 March 2024, Petitioner was an ongoing MSP and Medicaid recipient.
2. On March 15, 2024, MDHHS requested verification of Petitioner's vehicle value by March 25, 2024.
3. On March 25, 2024, Petitioner returned to MDHHS verification of his vehicle's value.

4. On March 25, 2024, MDHHS terminated Petitioner's MSP eligibility, effective April 2024, due to Petitioner's alleged failure to verify a vehicle's value.
5. On March 25, 2024, Petitioner requested a hearing to dispute the termination of MSP and Medicaid benefits.
6. On an unspecified date, MDHHS terminated Petitioner's Medicaid eligibility beginning June 2024.
7. As of May 15, 2024, MDHHS failed to send Petitioner notice of Medicaid eligibility ending.

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, in part, to dispute a termination of MSP benefits. Exhibit A, pp. 3-5. A Health Coverage Determination Notice dated March 25, 2024, stated that MDHHS terminated Petitioner's MSP eligibility beginning April 2024 due to Petitioner's failure to verify the value of a vehicle. Exhibit A, pp. 6-8.

MSP is an SSI-Related MA category. BEM 165 (October 2022) p. 1. For SSI-Related categories, vehicles are countable assets. BEM 400 (January 2024) p. 14.

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 March 15, 2024, requesting proof of the value of Petitioner's vehicle. Exhibit A, pp. 9-10. Petitioner's due date to return verification was March 25, 2024. MDHHS terminated Petitioner's MSP eligibility after it believed that Petitioner failed to timely return verification. During the hearing, MDHHS admitted that Petitioner timely submitted verification on March 25, 2024. MDHHS also admitted that the termination of MSP was improper due to Petitioner's timely verification.

Given the evidence, MDHHS improperly terminated Petitioner's MSP eligibility beginning April 2024. As a remedy, Petitioner is entitled to a reinstatement of MSP benefits.

Petitioner also requested a hearing to dispute a termination of Medicaid benefits. Exhibit A, pp. 3-5. MDHHS testified that on some unspecified date, it stopped Petitioner's Medicaid eligibility beginning June 2024. However, MDHHS testimony admitted that notice of closure was not sent to Petitioner.

Generally, MDHHS policy requires timely notice for Medicaid closures.¹ BAM 220 (October 2022) p. 5. Timely notice requires sending notice at least 11 days before the intended negative action takes effect. *Id.* The notice must specify the following:

- The action being taken
- The reason for the action
- The policy manual item supporting the basis for the action
- An explanation of the right to a hearing
- The conditions under which benefits may continue pending a hearing. *Id.*, pp. 2-3.

In the present case, MDHHS provided no evidence that written notice of Medicaid was sent to Petitioner. MDHHS cannot take a negative action without issuing proper notice.

Given the evidence, MDHHS improperly failed to send proper notice of Medicaid termination. As a remedy, Petitioner is entitled to reinstatement of Medicaid benefits.

¹ Exceptions include if the client or representative requests closure in writing confirmation of the client's death, verification of benefits in another state, and/or verification that a member was removed from the home. BAM 220 (October 2022) p. 3.

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 MSP and Medicaid 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 MSP eligibility, effective April 2024, subject to the finding that Petitioner did not fail to timely verify assets;
- (2) Reinstate Petitioner's Medicaid eligibility, effective June 2024, subject to the finding that MDHHS failed to send Petitioner proper notice; 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

Yaita Turner
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested Parties

Oakland 3 County DHHS
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner

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[REDACTED], MI [REDACTED]