



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN, DPA
DIRECTOR

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Date Mailed: March 15, 2024
MOAHR Docket No.: 24-001007
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on March 12, 2024, from Lansing, Michigan. Petitioner was represented by his authorized hearing representative ██████████ ██████████. Petitioner was present for the hearing but did not testify because he does not speak English. The Department was represented by Jamila Goods.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's Medicare Savings Plan (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. Petitioner was an ongoing recipient of Medicare Savings Program (MSP) benefits on November ██████████ 2023, when the Department sent him a Redetermination (DHS-1010) form addressed to Petitioner's mailing address of record and requesting that the form be returned by December 4, 2023. Exhibit A, p 12.
2. On January ██████████ 2024, the Department notified Petitioner that he was not eligible for the Medicare Savings Program (MSP) effective February 1, 2024. Exhibit A, p 7.
3. On January 31, 2024, the Department received Petitioner's request for a hearing protesting the closure of his Medicare Savings Program (MSP) benefits. Exhibit A, pp 3-5.

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 through 42 USC 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 through 42 CFR 420.25. The Department administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.103 through MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq.*

The Medicare Savings Programs are SSI-related MA categories. There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (October 1, 2022), pp 1-4.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2023), p 9.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (October 1, 2023), pp 1-10.

Reinstatement restores a closed program to active status without completion of a new application. Closed programs may be reinstated for complying with program requirements before the negative action date. Department of Health and Human Services Bridges Administrative Manual (BAM) 205 (January 1, 2022), p 1.

Petitioner was an ongoing recipient of MSP benefits when the Department initiated a routine review of his eligibility for ongoing benefits by sending him a Redetermination form with a December 4, 2023, due date. When that form was not completed and returned to the Department, the Department notified Petitioner that he was not eligible for MSP benefits effective February 1, 2024.

Petitioner's representative testified that the Redetermination form was not received.

While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, as it was here, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

In this case, the Department presented substantial evidence that it mailed a Redetermination form to Petitioner's mailing address of record and Petitioner failed to rebut the presumption of receipt.

Petitioner's representative testified that she submitted information necessary for the Department to redetermine Petitioner's eligibility for MSP benefits on January 31, 2024.

The Department acknowledges receiving documents on January 31, 2024, but that it was necessary for Petitioner to sign and return the Redetermination form, which was not included in the documents submitted on January 31, 2024.

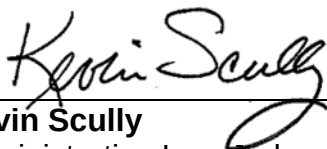
The hearing record supports a finding that the Department properly closed Petitioner's MSP benefits because he failed to return the Redetermination form, but Petitioner is entitled to reapply at any time, and he remains potentially eligible for MSP benefits.

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 acted in accordance with Department policy when it closed Petitioner's Medicare Savings Program (MSP) benefits effective February 1, 2024, for failure to provide the Department with information necessary to determine his eligibility to receive benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/dm



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings
and Rules (MOAHR)

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
MDHHS-Wayne-19-
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SchaferM

EQADHearings

BSC4HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]