



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

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

Date Mailed: May 30, 2024
MOAHR Docket No.: 24-003369
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 videoconference on May 2, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Mychal Whitehead, Eligibility Specialist, and Corlette Brown, Hearings Facilitator. The hearing was conducted by ALJ Amanda Marler. Because ALJ Marler is unavailable, pursuant to Mich Admin Code, R 792.10106(7), the undersigned has reviewed the record and issued this Hearing Decision.

At the hearing, the Department's hearing packet, pages 1 through 44, was admitted into evidence as Exhibit A.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) and Medicare Savings Program (MSP) cases?

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 MA coverage and MSP benefits.
2. On [REDACTED] 2024, Petitioner applied for Food Assistance Program (FAP) benefits. (Exhibit A, pp. 8-15)

3. In her FAP application, Petitioner disclosed self-employment, with monthly gross income (before expenses) of \$[REDACTED] and monthly expenses of \$100, and savings and checking accounts with balances totaling \$[REDACTED]. (Exhibit A, p. 12)
4. At her January 25, 2024 interview in connection with the FAP application, Petitioner reported \$[REDACTED] in self-employment income. (Exhibit A, p. 20)
5. On January 27, 2024, the Department sent Petitioner a Verification Checklist (VCL) requesting in connection with her FAP and MA cases verification, in relevant part, of her self-employment income and her checking and savings accounts by February 6, 2024. (Exhibit A, pp. 23-25) Self-employment income and expense statement forms were included for the months of October, November and December to verify self-employment income and expenses. (Exhibit A, pp. 26-31)
6. On February 2, 2024, the Department received Petitioner's bank statements. (Exhibit A, p. 32)
7. On February 8, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) notifying her that her MSP case would close effective March 1, 2024 because she had failed to verify her bank savings and checking accounts and her self-employment income and effective February 1, 2024 ongoing because she was not under 21, pregnant, a caretaker of a minor child in the home, over age 65, blind or disabled. (Exhibit A, pp. 40-42)
8. On February 25, 2024, the Department received Petitioner's self-employment income and expense statements. (Exhibit A, p. 32) Petitioner's spreadsheet showed the following income and expenses:

<u>Month</u>	<u>Income</u>	<u>Expenses</u>
October	\$ [REDACTED]	\$ 977.12
November	\$ [REDACTED]	\$ 929.81
December	\$ [REDACTED]	\$ 568.42

9. On March 11, 2024, the Department sent Petitioner a HCCDN notifying her that she was eligible for MA under the Freedom to Work (FTW) program for February 2024 and eligible for MA under only the Plan First Family Planning (PFFP) program effective March 1, 2024.
10. On March 22, 2024, the Department received Petitioner's hearing request disputing the closure of her MA and MSP cases.

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.

In this case, Petitioner had been receiving MA under the FTW program and was also receiving MSP benefits. Effective February 1, 2024, Petitioner's MSP case closed. Effective March 1, 2024, Petitioner's MA coverage changed from FTW to PFFP. Petitioner disputed the closure of her MSP case and change in MA coverage.

MSP

MSP is a State-administered program in which the State pays an income-eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (October 2022), pp 1-2; BAM 810 (July 2019), p. 1. There are three MSP categories: (1) Qualified Medicare Beneficiaries (QMB), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2.

The February 8, 2024 HCCDN sent to Petitioner notified her that her MSP case would close effective March 1, 2024 because she had failed to verify her bank savings and checking accounts or her self-employment income and was not under 21, pregnant, a caretaker of a minor child in the home, over age 65, blind or disabled.

At the hearing, the Department acknowledged that Petitioner was disabled. Therefore, to the extent that Petitioner's MSP case was closed due solely to a lack of a disability, the closure was not supported by the evidence.

However, the Department also alleged that the MSP case properly closed due to a failure to verify her bank savings and checking accounts and self-employment income. The MSP category a client is eligible for is dependent on the client's income and group size. As an unmarried individual, Petitioner had a one-person group size for MSP purposes. BEM 211 (October 2023), p. 8. To be eligible for MSP, a one-person group cannot have net income, calculated in accordance with BEM 500, 501, 502, 503, 504 and 530, that exceeds 135% of the federal poverty level, or \$1,694.25 in 2024. BEM 165, p. 1; RFT 242 (April 2024), p. 1. Additionally, effective January 1, 2024, a one-person group cannot have assets that exceed \$9,430. BEM 165 (October 2022), p. 8; BEM 400 (April 2024), p. 8.

Cash in savings and checking accounts are countable assets, with the value being the amount of money in the account or on deposit. BEM 400, pp. 2-3, 5-18.

Because the Department must consider income and assets to determine MSP eligibility, the Department properly requested verification of self-employment income and, to determine the value of Petitioner's cash assets, of her checking and savings accounts. BEM 502 (October 2019), pp. 4, 6-8; BEM 400, pp. 18, 63-64.

In requesting information, the Department must explain to the client what information is required. BAM 130 (October 2023), p. 3. For MA purposes, self-employment income and expenses can be verified only by IRS tax forms 1040, 1040 NR, or Schedule C used with IRS form 1040 (whether a 1040 form is available or not). BEM 502, pp. 7-8. A DHS-431, self-employment statement, is **not** acceptable verification for MA purposes. Here, the Department requested verification of self-employment income via income and expense statements and did not notify Petitioner that she was required to submit tax forms to verify self-employment income for MA and MSP purposes. Thus, the Department erred when it failed to notify Petitioner of the acceptable verifications for MA and MSP purposes and relied on the DHS-431 to verify Petitioner's self-employment income for MA and MSP purposes.

The Department also alleged that Petitioner had failed to verify all her bank accounts, but Petitioner's electronic case file showed that on February 2, 2024 she submitted three documents identified as "bank statements." Although the Department testified that Petitioner had a fourth bank account that she failed to identify in her application, the Department did not present into evidence copies of the documents Petitioner did submit to establish that Petitioner had failed to verify all bank accounts. Therefore, the Department failed to establish that Petitioner did not verify all bank accounts.

Medicaid

Petitioner also requested a hearing to dispute the change in her MA coverage. The Department testified that on March 11, 2024, it sent Petitioner a HCCDN notifying her that she was eligible for MA under the FTW program for February 2024 and eligible for MA only under the PFFP program effective March 1, 2024.

At the hearing, the Department explained that the closure of the FTW coverage was due to Petitioner's failure to verify self-employment income and assets. Earned income, including self-employment income, is considered in determining FTW income eligibility. BEM 174 (January 2020), p. 3. Also, once an individual is eligible for FTW, countable assets, which includes cash in bank accounts (but excludes retirement accounts, including IRAs and 401(k)s), cannot exceed \$75,000. BEM 174, p. 2; BEM 400, p. 7.

While the Department properly requested verification of Petitioner's income and assets, like the MSP eligibility, self-employment for MA purposes can be verified only via the tax forms identified above. Therefore, because the Department did not present any evidence that it requested verification of self-employment through Petitioner's IRS tax forms 1040, 1040 NR, or Schedule C used with IRS form 1040 (whether a 1040 form is available or

not), the Department improperly closed Petitioner's FTW case for failure to verify self-employment income. Further, as discussed above, the Department failed to establish which bank accounts Petitioner verified or failed to verify.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MSP and FTW MA 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 MSP eligibility from February 1, 2024 ongoing, requesting from Petitioner necessary verifications, if any;
2. Redetermine Petitioner's MA eligibility from March 1, 2024 ongoing, requesting from Petitioner necessary verifications, if any;
3. If eligible, provide Petitioner with MSP and/or MA coverage she is eligible to receive from February 1, 2024 and March 1, 2024, respectively; and
4. Notify Petitioner in writing of its decision.

ACE/cc



Alice C. Elkin
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 :

Interested Parties

MDHHS-Wayne-31-Grandmont-Hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

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