



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 [REDACTED]

Date Mailed: July 26, 2024
MOAHR Docket No.: 24-005573
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 205.1-0; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 27, 2024. Petitioner was present at the hearing and represented herself. Also present at the hearing was Petitioner's case worker from [REDACTED] Community Mental Health, Melissa Scherz. The Department of Health and Human Services (Department) was represented by Krista Kulick, Lead Worker.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) and Medicare Savings Program (MSP) application based on a failure to provide requested verifications?

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 [REDACTED] 2024, Petitioner applied for MA and MSP coverage.
2. On January 18, 2024, the Department sent a Verification Checklist (VCL) to Petitioner requesting verification proofs of Petitioner's checking and savings account, as well as verification of her husband's self-employment income. (Exhibit A, pp. 19-20). To verify her husband's self-employment income, the Department specifically requested one of the following proofs: (1) recent business receipts to date, (2) recent accounting or other business records to date, or (3) recent income tax return. (Exhibit A, p. 20). The requested verification proofs were due by January 29, 2024.

3. On January 19, 2024, Petitioner submitted to the Department a completed DHS-1004 form, also called a Health Care Coverage Supplemental Questionnaire, and a copy of her most recent Fifth Third Bank savings account information. (Exhibit A, p. 21).
4. On January 25, 2024, Petitioner submitted to the Department a copy of her husband's 2022 income tax return and a copy of her most recent Chase Bank checking account statement. (Exhibit A, pp. 22-35).
5. On April 10, 2024, the Department sent a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that effective January 1, 2024 ongoing, she was not eligible for coverage under MA or MSP due to her failure to provide requested verifications to the Department. (Exhibit A, pp. 36-39).
6. On May 9, 2024, Petitioner filed a request for hearing disputing the Department's denial of MA and MSP coverage. (Exhibit A, pp. 3-6).

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.

Petitioner requested a hearing to dispute the denial of MA and MSP benefits. A HCCDN dated April 10, 2024 stated that Petitioner's eligibility for MA and MSP was denied due to Petitioner's failure to provide requested verification and her income exceeding the limit for the MSP program.

In general, verification is to be obtained when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (October 2023), p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, pp. 1-4.

The Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. If the client cannot provide the verification despite a reasonable effort, the Department can extend the time limit up to two times when specific conditions are met. Verifications are considered timely if received by the date they are due. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 8-9.

Additionally, per Department policy, self-employment income must be verified with either of the following:

- Form 1040, U.S. individual federal income tax return.
- Form 1040 NR, non-resident alien federal income tax return.
- Schedule C, Profit or Loss from Business, including all attachments. This form is used in conjunction with IRS form 1040. Schedule C is acceptable even if not yet filed with the IRS.
- A non-tax filer may submit a completed Schedule C to verify expenses without a 1040. This may occur with a new business entity.
- A tax-filer may submit a Schedule C along with the accompanying 1040.
- Schedule F, Farm Rental Income and Expenses may be filed in conjunction with Form 1040.
- The DHS-431, Self-Employment Statement, is not acceptable verification for Medicaid purposes.

BEM 502 (October 2019), pp. 7-8.

In this case, the Department testified that the denial of MA and MSP was based on a failure to verify Petitioner's husband's self-employment with the submission of a Schedule C. However, the Department's VCL request issued on January 18, 2024 to Petitioner specifically requested a recent income tax return for Petitioner's husband. (Exhibit A, pp. 19-20). The Department did not provide evidence of any other request for verifications issued to Petitioner. Further, it appears that Petitioner complied with the requirement to provide the "entire" 2022 income tax return as required by the VCL as evidenced by her timely submission of her husband's 2022 tax return, which included Form 8879, Form 1040, Schedule 1, Federal Return Summary, Form 8995, and a Tax Return Reconciliation Worksheet. (Exhibit A, pp. 22-33). While Petitioner has primary responsibility for obtaining verification, the Department should not deny assistance because an individual is unable to verify income. BEM 502 (October 2019), pp. 6-7.

The Department sends a negative action when the client indicates a refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. Here, Petitioner clearly did not indicate a refusal to provide the verification and made a reasonable effort to comply with the request for verification. Thus, the Department did not act in accordance with policy when it denied Petitioner's MA case.

Also, the Department testified that the denial of MA and MSP was also based on a failure to verify Petitioner's checking account with Fifth Third Bank. However, at the hearing, it was discovered that Petitioner did not have a checking account with Fifth Third Bank, only a savings account, for which she provided timely verification. The Department acknowledged its error with its verification request and testified that this error occurred due to outdated information in the Petitioner's case file. Therefore, the denial based on a failure to provide checking account information for Fifth Third Bank is not supported by the evidence.

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 denied Petitioner's MA and MSP application based on a failure to provide requested verifications.

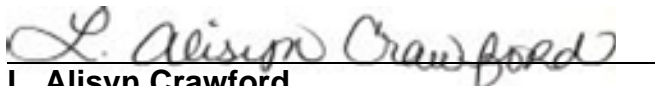
DECISION AND ORDER

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 eligibility for MA and MSP from the application date of [REDACTED] 2024, and request any verifications still needed, in accordance with Department policy;
2. If eligible, provide Pt with MSP benefits and the most beneficial MA coverage she is eligible to receive from the date of application ongoing; and
3. Notify Petitioner of its decision in writing.

LC/ml


L. Alisyn Crawford
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:

Respondent

Vivian Worden
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Clinton Township, MI 48036
MDHHS-Macomb-12-Hearings@michigan.gov

Interested Party

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

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