



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: August 13, 2024
MOAHR Docket No.: 24-006034
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on July 15, 2024. Petitioner appeared and represented herself; she was assisted by her son, [REDACTED]. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner Medicare Savings Program (MSP) case?

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 MSP.
2. In early 2024, Petitioner completed a redetermination application for the Department to assess her ongoing MSP eligibility.
3. On May 10, 2024, the Department closed Petitioner's MSP case, effective June 1, 2024, for excess assets. (Exhibit A, p. 1).
4. On May 16, 2024, the Department received a request for hearing from Petitioner disputing the closure of her MSP case. (Exhibit A, p. 3).

5. On May 29, 2024, the Department sent Petitioner a Verification Checklist (VCL), which requested Petitioner provide verification of trust documents to the Department by June 10, 2024. The VCL specifically requested:
 - a) copy of original trust papers and any changes made, and
 - b) a signed copy of the trust agreements with the amount and lowest balance.(Exhibit A, pp. 16 – 22).
6. The Department previously received a letter regarding the [REDACTED] [REDACTED] Living Trust and Discretionary Trust (Trust) on June 7, 2023. The letter states Petitioner is the beneficiary of the Trust, that the Trust is a Special Needs Trust, and contains additional information regarding the Trust as of June 1, 2023. The portion of the letter presented as evidence is noted as page 1 of 2 and is undated and unsigned. (Exhibit A, p. 12).
7. Petitioner's son, [REDACTED] [REDACTED] [REDACTED] is Trustee (Trustee) of the Trust.
8. On June 18, 2024, the Trustee submitted Trust documents to the Department.

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 closure of her MSP. The Department closed Petitioner's MSP on May 10, 2024, effective June 1, 2024, due to excess assets.

The Medicare Savings Program (MSP) is an SSI-related (Medicaid) MA category. BEM 165 (October 2022), p. 1. To determine eligibility for SSI-related MA categories, the Department must consider a client's assets, including trust assets. BEM 400 (June 2024), p. 1. For purposes of SSI-related MA and trust assets, applicable policy depends on the terms of the trust and when the trust was established. BEM 401 (January 2022), p. 1.

To determine a client's eligibility for MSP when a trust is involved, a trust/annuity request is submitted to the Department's Trusts and Annuities Unit (TAU) for evaluation. BEM 401 (January 2022), p. 3. The request must include completed Request for Trust/Annuity Evaluation (DHS-1517). BEM 401, p. 3. Once a trust has been evaluated, a re-evaluation is not required unless the local office believes a change has occurred affecting availability of the trust principal or income, including a change in department policy. BEM 401 (January 2022), p. 3.

In this case, Petitioner is the beneficiary of the Trust. (Exhibit A, p. 12). Trustee testified that the Trust is a special needs trust that has already been evaluated by the Department. The Department testified that subsequent to its closure of Petitioner's MSP, it corrected its records to budget current asset limits for the Trust in Petitioner's name and that the Trust must be evaluated by the TAU. (Exhibit A, p. 1). The Department did not dispute Trustee's testimony that the Trust has already been evaluated and did not explain why a re-evaluation of the Trust was necessary. Because the Department did not explain why a re-evaluation of the Trust was necessary, it failed to satisfy its burden of showing that it acted in accordance with Department policy.

After the Department had closed Petitioner's MSP, the Department sent a VCL to Petitioner on May 29, 2024 and requested specific documents related to the Trust. (Exhibit A, pp. 16 – 22). At the hearing, the Department acknowledged that the documents were submitted to the Department on June 18, 2024, but was unable to confirm that it submitted the documents were to the TAU. Trust/annuity evaluation requests must be sent to the TUA as soon as possible to allow the Department to complete evaluation of Petitioner's eligibility promptly. BEM 401, p. 3. Because the documents were submitted to the Department on June 18, 2024 and, as of the date of the hearing on July 15, 2024, the Department was unable to confirm that the documents were submitted to the TAU, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy.

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 could not confirm that Petitioner's trust documents were submitted to the TUA as soon as possible.

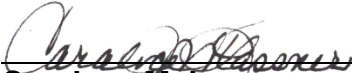
DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

TO THE EXTENT IT HAS NOT ALREADY DONE SO, 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 MSP effective June 1, 2024 ongoing, including whether a re-evaluation of the Trust is necessary;
2. If a re-evaluation of the Trust is necessary, submit a completed Request for Trust/Annuity Evaluation (DHS-1517) to the Department's TAU with all Trust documents;
3. Once an evaluation of the Trust is received from the TAU, redetermine Petitioner's eligibility for MSP for June 1, 2024 ongoing;
4. If eligible, provide Petitioner with MSP benefits she is eligible to receive from June 1, 2024 ongoing; and
5. Notify Petitioner of its decision in writing.

CML/nr



Caralyce M. Lassner
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

Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228

MDHHS-Wayne-17-hearings@michigan.gov

Interested Parties

BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner

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