



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

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██████████, MI ██████████

Date Mailed: September 20, 2024
MOAHR Docket No.: 24-008075
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on August 21, 2024, via teleconference. Petitioner was represented by ██████████, her Authorized Hearing Representative (AHR). Shelia Crittenden, Family Independence Manager, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-126.

ISSUE

Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA) coverage and Medicare Savings Program (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 MA coverage.
2. On ██████████ 2023, Petitioner submitted a redetermination for MA (Exhibit A, p. 10).
3. On January 4, 2024, MDHHS sent Petitioner a Verification Checklist (VCL) requesting verification of Whole Life Non-Participating insurance policy (Exhibit A, p. 43). The VCL indicated that the proofs were due by January 16, 2024 (Exhibit A, p. 43).

4. On January 4, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was eligible for Plan First MA, a limited coverage category, effective February 1, 2024 (Exhibit A, p. 45).
5. On January 19, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice stating "WE DID NOT RECEIVE PROOF OF YOUR WHOLE LIFE INSURANCE. IF YOU TURN IT IN BY 1/31, WE MAY BE ABLE TO REINSTATE YOUR MEDICAL. WE WOULD NEED THE FULL POLICY AND CURRENT STATEMENT" (Exhibit A, p. 49).
6. On January 26, 2024, Petitioner submitted a letter to MDHHS stating that she surrendered two life insurance policies with [REDACTED] and [REDACTED] and the funds were transferred to her bank account in [REDACTED] (Exhibit A, p. 27). The letter further stated that she made a prepaid funeral agreement with [REDACTED] funeral home in [REDACTED] (Exhibit A, p. 27). Petitioner included forms from the insurance company, a Statement of Goods and Services for the funeral contract, a cashier's check from Petitioner to [REDACTED], an Assignment of Life Insurance or Annuity Proceeds form, Irrevocable Transfer of Ownership form, a [REDACTED] Bank statement, a Certificate of Surrender Request form from [REDACTED] [REDACTED] Whole Life Insurance Certificate, and an [REDACTED] Insurance surrender form.
7. On February 20, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that her MA benefits would be terminated, effective March 1, 2024 (Exhibit A, p. 6).
8. On March 6, 2024, Petitioner requested a hearing regarding her MA coverage (Exhibit A, pp. 3-5).
9. On March 11, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that for February 2024 she was approved for MA with a deductible (Exhibit A, p. 55).
10. On March 25, 2024, Petitioner requested a hearing regarding her MA coverage (Exhibit A, pp. 60-61).
11. On [REDACTED] 2024, Petitioner submitted an application for MA (Exhibit A, p. 68).
12. On May 29, 2024, MDHHS sent Petitioner a Verification Checklist (VCL) requesting verification of application for Medicare, Whole Life Non-Participating insurance policy, and other burial funds/contracts (Exhibit A, pp. 74-75). The VCL indicated that the proofs were due by June 10, 2024 (Exhibit A, p. 74).
13. On May 30, 2024, Petitioner requested a hearing regarding her MA coverage (Exhibit A, pp. 91-92).

14. On July 3, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was eligible for Plan First MA, a limited coverage category, effective May 1, 2024 ongoing (Exhibit A, p. 118).

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).

Medicaid (MA) 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 MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. The Medicare Savings Program (MSP) is a state program administered by MDHHS in which the state pays an eligible client's Medicare premiums, coinsurances, and deductibles, with coverage depending on the MSP category that the client is eligible to receive based on the client's income. BEM 165 (June 2024), pp 1-2; BAM 810 (January 2020), p. 1.

In this case, MDHHS terminated Petitioner's MA coverage for failure to provide the required verifications. MDHHS approved her for Plan First MA, which is a limited-coverage MA category due to not receiving the proper verifications.

MDHHS requests verification of a client's written or verbal statements when required by policy or when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (October 2023), p. 1. The questionable information might be from a client or third party. *Id.* Verification is usually required at application or redetermination. *Id.* To request verification, MDHHS must send the client a Verification Checklist (VCL), which tells the client what verification is required, how to obtain it and the due date. *Id.*, pp. 3-4. Before determining eligibility, MDHHS must give the client a reasonable opportunity to resolve any discrepancy between the client's statements and information from another source. *Id.*, p. 9. Clients must obtain the verification, but MDHHS must assist the client if the client needs and requests help. *Id.*, p. 4. MDHHS is also required to assist clients in obtaining the verifications if the client indicates the existence of a disability that impairs their ability to gather information. *Id.*, p. 1. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. *Id.*, p. 4. If no evidence is available, MDHHS is required to use its best judgment. *Id.* Verification is not required for excluded income and assets unless verification is needed to establish the exclusion. *Id.* A collateral contact is a type of acceptable verification. *Id.*, pp. 2-3. A collateral contact is a direct contact with a person, organization or agency to verify information from the client. *Id.* It might be necessary when documentation is not available or when available evidence needs clarification. *Id.*

The record shows that Petitioner submitted several documents in [REDACTED] 2024 evidencing the status of the life insurance policies and the transfer to the prepaid funeral contract (Exhibit A, pp. 28-42). It is unclear why this evidence was not sufficient. MDHHS testified that it needed copies of the insurance policies, evidence of the cash out, and the signed funeral contract. AHR testified that she attempted to provide MDHHS with all the requested documentation and that she did not know what was missing. The record shows that Petitioner made a reasonable effort to obtain the requested documentation, and the VCLs were not sufficiently specific regarding what information MDHHS needed. In addition, MDHHS failed to demonstrate that it properly assisted Petitioner in obtaining the required verifications. No evidence was provided to show that MDHHS attempted to verify the information via a collateral contact or through some other means. If the necessary information was not available, which may have been the case regarding a former life insurance policy, MDHHS was required to use the best available information and/or its best judgment. No evidence was presented that it did so here.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for MA and MSP.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**. MDHHS 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 benefits, effective February 1, 2024 ongoing, providing the appropriate assistance in obtaining the necessary verifications;
2. Provide Petitioner with the most beneficial category of MA and MSP benefits that she is entitled to receive; and
3. Notify Petitioner and AHR of its decision(s) in writing.

LJ/pt



Linda Jordan
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
Ashley Warner
Missaukee/Wexford County DHHS
10641 W. Watergate Rd.
Cadillac, MI 49601
MDHHS-GR8North-Hearings@michigan.gov

Interested Parties

BSC1
M. Schaefer
EQAD
MOAHR

Via-First Class Mail:

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