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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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Date Mailed: October 4, 2024
MOAHR Docket No.: 24-008532
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 September 5, 2024, via teleconference. Petitioner appeared and represented himself. Devonna Gilbert, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-34.

ISSUE

Did MDHHS properly determine Petitioner's eligibility for Medicare Savings Program (MSP) coverage?

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 Medicaid (MA) and MSP coverage.
2. On ██████████ 2024, Petitioner submitted a redetermination for MA (Exhibit A, p. 8).
3. On July 2, 2024, MDHHS sent Petitioner a Verification Checklist (VCL), indicating that it needed to verify income information to determine Petitioner's eligibility for MA (Exhibit A, p. 15). The VCL indicated that proofs were due by July 11, 2024 (Exhibit A, p. 15).

4. On July 12, 2024, MDHHS sent Petitioner a Health Care Determination Notice indicating that he was not eligible for MSP, effective August 1, 2024 ongoing, for failure to verify information (Exhibit A, p. 18).
5. On July 19, 2024, Petitioner requested a hearing regarding his MSP coverage (Exhibit A, pp. 4-6).
6. On July 29, 2024, MDHHS sent Petitioner a Verification Checklist (VCL), indicating that it needed to verify vehicle value information to determine Petitioner's eligibility for MA (Exhibit A, p. 23). The VCL indicated that proofs were due by August 8, 2024 (Exhibit A, p. 23).

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 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 the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2024), p. 1.

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 (October 2022), pp 1-2; BAM 810 (January 2020), p. 1. All eligibility factors for the program must be met in the calendar month being tested. BEM 165, p. 2. There are three MSP categories: (1) QMB (Qualified Medicare Beneficiary), 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.

At the hearing, MDHHS testified that Petitioner's MSP coverage was terminated because it did not receive the requested verifications regarding the value of Petitioner's Spouse's vehicle.

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 MDHHS sent Petitioner a VCL on July 2, 2024 requesting income information prior to the termination of MSP benefits (Exhibit A, p. 15). This document did not request information regarding Petitioner's vehicles. On July 12, 2024, MDHHS sent Petitioner a Determination Notice indicating that he was not eligible for MSP benefits, effective August 1, 2024 ongoing, for failure to return the requested verifications (Exhibit A, p. 18). There is no proof that MDHHS requested verification of the value of Petitioner's vehicle until the VCL was sent on July 29, 2024, which was after the MSP denial (Exhibit A, p. 23). Additionally, the subsequent VCL is insufficient because it does not denote a specific vehicle. At the hearing, MDHHS testified that it received a vehicle verification from Petitioner, but it was only for one household vehicle and not both household vehicles. Petitioner testified that he was attempting to comply with MDHHS' requests, but he did not know what documentation it needed specifically. Based on the evidence presented, MDHHS did not properly notify Petitioner of what verifications were needed, and Petitioner made reasonable efforts to comply with MDHHS' requests.

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 did not act in accordance with Department policy when it terminated Petitioner's MSP benefits.

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 MSP benefits, effective August 1, 2024 ongoing;
2. If eligible, provide Petitioner with MSP benefits, effective August 1, 2024 ongoing; and
3. Notify Petitioner of its decision 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

