



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: October 9, 2024
MOAHR Docket No.: 24-008766
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 telephone hearing was held on September 11, 2024, from Detroit, Michigan. Petitioner did not appear for the hearing. Petitioner was represented by Authorized Hearing Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) 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 Food Assistance Program (FAP) and MA benefits.
2. In connection with a redetermination, Petitioner's eligibility to receive FAP benefits was reviewed. On the redetermination submitted to the Department on April 26, 2024, Petitioner reported that his household received a \$1,200 tax refund.
3. On or around May 29, 2024, the Department sent Petitioner a Verification Checklist (VCL) in connection with his FAP case instructing him to submit proof of unearned income/donation from an individual outside of the FAP group by June 10, 2024. (Exhibit A, pp. 13-15)
4. On June 11, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective July 1, 2024, he was ineligible for

Medicare Savings Program (MSP) benefits because he did not meet basic criteria and that he was ineligible for MA benefits because he is not under age 21, pregnant, or a caretaker of a minor child, that he is not over age 65, blind or disabled. (Exhibit A, pp. 6-9)

- a. While not reflected on the notice, the Department asserted that Petitioner's MA case was closed because he failed to submit proof of his federal tax refund.
5. The Department did not present a VCL sent prior to June 11, 2024, which instructed Petitioner to submit proof of an income tax refund.
6. Although the Department asserted that Petitioner's MA case closed effective July 1, 2024, the Department received and began processing a redetermination for Petitioner's MA case on July 6, 2024. On the redetermination, Petitioner indicated that he received an income tax refund of \$700. (Exhibit A, pp. 21-26)
7. On or around July 11, 2024, the Department sent Petitioner a VCL instructing him to submit proof of a federal income tax refund, checking account, and unearned income/ donation or contribution from an individual outside of the group by July 11, 2024. (Exhibit A, pp. 16-18)
8. The Department conceded that Petitioner timely returned verification of his unearned income, bank statements and verification of a \$700 state tax refund as instructed in the VCLs.
9. On or around July 26, 2024, Petitioner requested a hearing disputing the Department's actions with respect to his MA and MSP benefits.

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 disputed the closure of his MA case effective July 1, 2024, and the Department's determination that he was ineligible for MSP benefits.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (October 2023), p. 1; BEM 137 (June 2020), p. 1; BEM 124 (July 2023), p. 1.

MSP are SSI-related MA categories. There are three MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low-Income Beneficiaries (ALMB). BEM 165 (October 2022), p. 1. QMB is a full coverage MSP that pays Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them), Medicare coinsurances, and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, pp. 1-2.

Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105, p. 2; 42 CFR 435.404.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2023), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

For MA cases, clients are given 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, pp. 7-9. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, pp. 7-9. Verifications are considered to be timely if received by the date they are due. BAM 130, pp. 7-9. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has lapsed. BAM 130, pp. 8-9.

At the hearing, the Department representative testified that although the June 11, 2024, Health Care Coverage Determination Notice advises Petitioner that his MA case is closing effective July 1, 2024, because he is not under age 21, pregnant, or a caretaker of a minor child, that he is not over age 65, blind or disabled, the reason for the case closure was Petitioner's failure to return verification of his federal income tax refund. The Department failed to establish that it requested verification of the federal tax refund prior to the June 11, 2024, notice of case closure. The Department conceded that the May 29, 2024, VCL

did not instruct Petitioner to submit proof of his federal income tax refund and no other VCL was presented prior to the Department initiating the closure of Petitioner's MA case. Thus, the Department failed to show that Petitioner's MA case was properly closed effective July 1, 2024. Furthermore, the Department received a redetermination from Petitioner on or around July 6, 2024, that was processed. The Department acknowledged that Petitioner timely submitted verification of unearned income, bank statements, and a \$700 state income tax refund in connection with the VCLs that were issued. Petitioner's AHR testified that Petitioner did not receive a federal income tax refund and only received a state income tax refund. Petitioner's AHR asserted that a letter was submitted to the Department advising that Petitioner only received a state income tax refund, which the Department confirmed receiving. Additionally, the Department did not sufficiently establish that verification of the federal income tax refund was necessary to determine Petitioner's MA eligibility, as the Department is to exclude federal income tax refunds for 12 months from the month of receipt. BEM 400, p. 24. Therefore, because the Department closed Petitioner's MA case prior to requesting verification of the tax refund and because the Department failed to establish that the federal tax refund was a countable asset, the Department failed to follow Department policy when it closed Petitioner's MA case effective July 1, 2024.

With respect to the MSP eligibility, the Department's testimony was conflicting as to whether Petitioner met the basic criteria to receive MSP benefits. Petitioner's AHR asserted that Petitioner was enrolled in Medicare Part A and Part D. While Petitioner's AHR asserted that Petitioner was also enrolled in Medicare Part B, the Department maintained that Petitioner refused Part B enrollment. There was no documentary evidence presented by the Department in support of its determination that Petitioner was ineligible for MSP benefits effective July 1, 2024.

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 processed Petitioner's MA and MSP eligibility.

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 MA and MSP eligibility under the most beneficial category for July 1, 2024, ongoing;
2. If eligible, provide MA coverage to Petitioner for any MA and MSP benefits that he was entitled to receive but did not, if any, from July 1, 2024, ongoing, and

3. Notify Petitioner in writing of its decision.

ZB/ml



Zainab A. Baydoun
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

Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
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Interested Parties

BSC4
M Schaefer
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Via First Class Mail:

Petitioner

[REDACTED]
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Authorized Hearing Rep.

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