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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

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DIRECTOR

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██████████, MI ██████████

Date Mailed: October 29, 2024  
MOAHR Docket No.: 24-010123  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

**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 conducted via Microsoft Teams (audio only) on October 23, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Lakeyia Johnson, supervisor.

**ISSUE**

The issue is whether MDHHS properly terminated Petitioner’s Medicare Savings Program (MSP) eligibility.

**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 ██████████ ██████████ 2024, Petitioner applied for Medicare Savings Program (MSP) benefits.
2. On an unspecified date, MDHHS discovered via an asset detection report that Petitioner had a savings account with a \$██████████ balance as well as a checking account.
3. On August 6, 2024, MDHHS mailed Petitioner a Verification Checklist requesting verification of Petitioner’s checking and savings account balances due by August 16, 2024.

4. On August 19, 2024, MDHHS received verification of Petitioner's checking account balance.
5. On August 20, 2024, MDHHS denied Petitioner's MSP eligibility beginning July 2024 due to Petitioner not meeting the basic criteria for the program.
6. As of August 20, 2024, Petitioner had not yet returned verification of a savings account.
7. On September 3, 2024, Petitioner requested a hearing to dispute the denial of MSP benefits.

### **CONCLUSIONS OF LAW**

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute the denial of MSP benefits. Exhibit A p. 3. Petitioner applied for MSP benefits on [REDACTED] [REDACTED] 2024. A Health Care Coverage Determination Notice dated August 20, 2024, stated that Petitioner was denied MA beginning July 2024 due to not meeting the basic criteria for the program. Exhibit A, pp. 16-18.

MSP is an SSI-related MA program. BEM 165 (July 2024) p. 1. MDHHS is to consider assets at application when determining MA eligibility for SSI-Related categories. *Id.*, p. 61.

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2022) p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* For Medicaid, MDHHS is to allow the client 10 calendar days to provide the verification that is requested. *Id.*, p. 8. MDHHS may send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. *Id.*

MDHHS testified that it learned of potential assets for Petitioner from an asset detection report. Exhibit A, pp. 12-14. MDHHS will utilize an asset verification program to electronically detect unreported assets belonging to applicants and beneficiaries. BEM 400 (April 2022) p. 2. The asset detection documents listed a possible checking and savings account for Petitioner. MDHHS sent a VCL on August 6, 2024, giving Petitioner until August 16, 2024, to verify each account. Exhibit A, pp. 6-7. MDHHS acknowledged

that Petitioner timely verified the checking account information. Exhibit A, pp. 9-10. Petitioner acknowledged that he did not return verification of his savings account.

MDHHS contended that Petitioner's failure to verify saving account information justified denying Petitioner's application.<sup>1</sup> MDHHS's contention is compelling; however, MDHHS failed an additional procedural requirement.

Upon certification of eligibility results, MDHHS's database automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (November 2023) p. 2. Among other requirements, Notices of Case Action must include the reason for the negative action and the specific manual item citing the legal basis for an action.<sup>2</sup> *Id.*, pp. 2-3.

The notice informing Petitioner of MSP denial stated Petitioner did not meet basic criteria for MSP.<sup>3</sup> During the hearing, MDHHS did not present any evidence that Petitioner was ineligible for MSP due to not meeting the basic criteria. Thus, MDHHS failed to establish that Petitioner it sent Petitioner proper written notice. As a remedy, Petitioner is entitled to a reprocessing of his MSP benefit application dated [REDACTED] [REDACTED] 2024.<sup>4</sup>

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<sup>1</sup> Petitioner initially testified that he did not realize that he needed to return checking and savings account information. Petitioner's testimony would not excuse a failure to verify a savings account because the stated VCL request was clear.

<sup>2</sup> The actions taken by MDHHS, a right to a hearing, and the conditions required to continue benefits pending the hearing are other required inclusions of notices.

<sup>3</sup> To receive MSP, a person must be entitled to Medicare Part A. BEM 165 (July 2024) p. 1. Financial (income and assets) and other nonfinancial eligibility factors (residency, citizenship, identity...) must also be met. *Id.*, p. 2. Presumably, a failure to meet basic criteria refers to not being entitled to Medicare Part A rather than some other specific eligibility factor (income, asset, residential...) not being met.

<sup>4</sup> As discussed during the hearing, Petitioner was advised to turn in savings account verification as soon as possible to avoid a second denial.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's MSP eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's MSP application dated [REDACTED] [REDACTED] 2024, subject to the finding that MDHHS failed to issue proper written notice denying MSP benefits; and
- (2) Issue notice and supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



**Christian Gardocki**

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**

Denise Key-McCoggle  
Wayne-Greydale-DHHS  
27260 Plymouth Rd  
Redford, MI 48239

**MDHHS-Wayne-15-Greydale-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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