



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: October 28, 2024  
MOAHR Docket No.: 24-010774  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 held via Microsoft Teams (audio only) on October 17, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Avery Smith, 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. As of May 2024, Petitioner was an ongoing recipient of MSP benefits.
2. On June 11, 2024, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting checking account verification by June 21, 2024.
3. On June 27, 2024, MDHHS received Petitioner's checking account statement.
4. On August 1, 2024, MDHHS terminated Petitioner's MSP eligibility beginning June 2024 due to Petitioner allegedly failing to meet basic criteria for the program.

5. On September 16, 2024, Petitioner requested a hearing to dispute the termination 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 a termination of MSP benefits. Exhibit A, pp. 3-5. A Health Care Coverage Determination Notice dated August 1, 2024, stated that Petitioner's MSP eligibility ended June 2024 due to not meeting the basic criteria to receive MSP benefits. Exhibit A, pp. 16-18.

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.

During the hearing, MDHHS did not present any evidence that Petitioner was ineligible for MSP due to failing to meet basic criteria for the program. Thus, MDHHS failed to establish that Petitioner was ineligible for the stated reason on the notice.

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. 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>1</sup> *Id.*, pp. 2-3.

During the hearing, MDHHS alleged that Petitioner failed to verify assets. However, MDHHS failed to state on its written notice that Petitioner failed to verify assets. By failing to include a proper reason for written notice, the actions of MDHHS are properly reversed. However, the evidence further established that Petitioner did not fail to verify assets.

Assets are relevant to determining MA under SSI-related categories. For purposes of this decision, it will be assumed that Petitioner is eligible only for MA benefits under SSI-related categories.<sup>2</sup>

---

<sup>1</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>2</sup> See BAM 105 for an explanation of MA categories.

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2023) p. 2. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* For MA, MDHHS is to allow the client 10 calendar days to provide the verification that is requested. *Id.*, p. 7. 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 mailed Petitioner a VCL on June 11, 2024, requesting verification of Petitioner's checking account by June 21, 2024. Exhibit A, pp. 14-15. MDHHS alleged that Petitioner failed to verify the checking account; however, MDHHS presented a list of documents returned by Petitioner which included a "bank statement" returned to MDHHS on June 27, 2024. Exhibit A, p. 13. MDHHS was asked to check if the bank statement complied with the VCL request; MDHHS testimony acknowledged that Petitioner indeed returned a checking account statement on June 27, 2024.

Because Petitioner returned requested verification before MDHHS terminated benefits on August 1, 2024, it is found that MDHHS improperly terminated Petitioner's MSP eligibility.<sup>3</sup> As a remedy, Petitioner is entitled to a reinstatement of MSP benefits.

### **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) Reinstatement of Petitioner's MSP eligibility effective June 2024 subject to the finding that Petitioner timely returned verification of assets; 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

---

<sup>3</sup> It is implied that clients can return verifications after the VCL due date if MDHHS has yet to send written notice of an adverse action.

**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**  
Tracey Jones  
Oakland County Southfield District III  
25620 W. 8 Mile Rd  
Southfield, MI 48033  
**MDHHS-Oakland-6303-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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