



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: January 7, 2020  
MOAHR Docket No.: 19-010696  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

### **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. On December 4, 2019, MOAHR granted an adjournment requested by Petitioner, approving a rescheduled hearing to be held by 3-way telephone conference call. On December 10, 2019, a Notice of Hearing was issued, scheduling a new hearing for December 19, 2019, with Petitioner appearing by conference telephone. The hearing was scheduled for 2:00 p.m. Saginaw County Department of Health and Human Services was issued a copy of the Notice of Hearing.

At the time and place for the December 19, 2019 Administrative Hearing, the Saginaw County DHHS failed to appear. After attempts to reach the hearings coordinator, an auto response came back that she was out of the office. MOAHR e-mailed the manager and left a voicemail without response. At 2:45 p.m., the hearing proceeded with the Administrative Law Judge (ALJ) and Petitioner.

Petitioner appeared and testified, unrepresented.

### **ISSUE**

Did the Department properly propose to close Petitioner's Healthy Michigan Plan (HMP)?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times prior to the proposed action herein, Petitioner has been a beneficiary of the HMP program.

2. On August 21, 2019, Respondent received a New Hire Client Notice on behalf of Petitioner.
3. On August 26, 2019, the Department issued a Health Care Coverage Determination Notice, informing Petitioner that effective October 1, 2019, he was no longer eligible for HMP due to excess income.
4. On September 30, 2019, Petitioner filed a hearing request.
5. Petitioner did not receive a copy of the evidentiary hearing packet.
6. On December 19, 2019, an administrative hearing was held, as scheduled. The Department failed to appear.

### **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.

As a beneficiary or applicant for welfare benefits, the party alleging eligibility has the burden of proof by a preponderance of evidence. Here, that burden falls on Petitioner. However, in beneficiary administrative hearings, the Department has the burden of going forward.

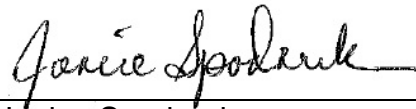
As noted, unrefuted evidence of record is that Petitioner did not receive a copy of the evidentiary packet. The hearing summary sheet in that packet, which was sent to the ALJ, stated that Petitioner was not income eligible, but failed to explain the actual calculation as to how the Department calculated Petitioner's income. Petitioner testified that he was not excess income. Petitioner's testimony was unrefuted, as the Department failed to show for the administrative hearing.

Here, the Department failed to meet its burden of going forward. As evidence of record cannot be credibly found to support the action herein, the Department's proposed closure, effective October 1, 2019 of Petitioner's HMP, cannot stand. The Department must be reversed.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, finds that the Department failed to meet its burden of going forward and failed to bring forth sufficient and credible evidence to explain the budget in proposing to close Petitioner's HMP, effective October 1, 2019.

**DECISION AND ORDER**

Accordingly, the Department's proposed action is REVERSED.



JS/ml

---

Janice Spodarek  
Administrative Law Judge  
for Robert Gordon, Director  
Department of Health and Human Services

**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

**DHHS**

Kathleen Verdoni  
411 East Genesee  
P.O. Box 5070  
Saginaw, MI 48607

Saginaw County DHHS – Via Electronic  
Mail

BSC2 – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

**Petitioner**

[REDACTED] – Via First Class Mail  
[REDACTED] MI [REDACTED]