



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: December 26, 2019  
MOAHR Docket No.: 19-012516  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 19, 2019, from Lansing, Michigan. Petitioner, [REDACTED], appeared with her mother, Delores Masters. Respondent, Department of Health and Human Services (Department), had Andrea Edwards, Hearing Facilitator, appear on its behalf. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 41-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Did the Department properly determine that Petitioner was ineligible for Medicare Savings Program (MSP) coverage for September 2019?

### **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 receiving MSP coverage (ALMB) from the Department when the Department received notice on July 25, 2019, that Petitioner had been admitted to a long-term care facility. The Department was advised that Petitioner was expected to be in the long-term care facility for at least 30 days.
2. When the Department received notice that Petitioner was expected to be in a long-term care facility for at least 30 days, the Department reviewed Petitioner's case to ensure that she received the most beneficial medical assistance available to her through the Department.

3. Upon review, the Department determined that Petitioner was eligible for extended-care medical assistance.
4. On July 30, 2019, the Department mailed a health care coverage determination notice to Petitioner to notify her that she was eligible for full-coverage medical assistance for July 2019 with a \$985.00 patient pay amount. The notice also notified Petitioner that she was no longer eligible for MSP effective September 1, 2019, because she had other medical assistance coverage.
5. On August 5, 2019, the Department mailed another health care coverage determination notice to Petitioner. The notice notified Petitioner that she was eligible for full-coverage medical assistance for July 2019 with a \$985.00 patient pay amount and for subsequent months with a \$1,333.00 patient pay amount. The notice also notified Petitioner that she was no longer eligible for MSP effective September 1, 2019, because she had other medical assistance coverage.
6. On August 9, 2019, Petitioner was discharged from the long-term care facility.
7. On August 27, 2019, the Department mailed a health care coverage determination notice to Petitioner to notify her that her full-coverage was closed effective September 1, 2019, and she was eligible for MSP effective October 1, 2019.
8. On November 4, 2019, Petitioner requested a hearing because the Department found her ineligible for MSP for September 2019.

### **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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner asserted that the Department did not properly deny her MSP coverage for September 2019. Petitioner did not present sufficient evidence to establish that the Department did not act properly.

When Petitioner was admitted to a long-term care facility, the Department reviewed Petitioner's medical assistance coverage and determined that the most beneficial coverage for Petitioner was through the extended-care program. The Department found Petitioner eligible for extended-care effective July 1, 2019. The Department closed Petitioner's MSP-ALMB effective September 1, 2019, because Petitioner could not have both extended-care and MSP. A person is not eligible for ALMB if the person is eligible for and receiving medical assistance under another category. BEM 165 (January 1, 2018), p. 6. Since Petitioner was eligible for and receiving medical assistance under extended care, the Department properly closed Petitioner's MSP-ALMB.


The Department initiated the reinstatement of Petitioner's MSP when it received notice that Petitioner had been discharged from the long-term care facility. Petitioner was discharged on August 9, 2019. Petitioner did not present any evidence to establish that she advised the Department that she was discharged. On August 27, 2019, when the Department was aware of Petitioner's discharge, the Department initiated the closure of her extended-care and the reinstatement of her MSP-ALMB. The Department was unable to reinstate Petitioner's MSP-ALMB until her extended-care closed because Petitioner could not have both at the same time. The Department could not close Petitioner's extended-care coverage until at least 12 days after it gave her notice of the closure. BAM 220 (April 1, 2019). Since the Department gave Petitioner notice on August 27, 2019, the first date the Department could close her coverage was effective the end of September 2019. Thus, the first date the Department could reinstate Petitioner's MSP was October 1, 2019.

### **DECISION AND ORDER**

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 act in accordance with its policies and the applicable law when it determined that Petitioner was ineligible for MSP coverage for September 2019.

IT IS ORDERED the Department's decision is **AFFIRMED**.

JK/ml



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Jeffrey Kemm  
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**

Pam Assemany  
220 Fort St.  
Port Huron, MI 48060

St. Clair County DHHS – Via Electronic  
Mail

BSC2 – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

**Petitioner**

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