



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: July 16, 2019  
MOAHR Docket No.: 19-005823  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: John Markey**

**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 July 11, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Janika Ashwood, Eligibility Specialist, and Laquansa Shah, Eligibility Specialist. During the hearing, an 18-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-18.

**ISSUE**

Did the Department properly close Petitioner's Medicaid (MA) benefits case, effective June 1, 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 is a ████████ old disabled individual who lives in a household with her husband. Both Petitioner and her husband have income from RSDI. Petitioner gets \$1,126.50 per month and her husband gets \$804.50. Her husband also works approximately 25 hours per week at a rate of pay of \$18.50 per hour. Thus, his monthly earned income is approximately \$1,850. Exhibit A, pp. 6-13.
2. Petitioner was an ongoing recipient of MA benefits under the Healthy Michigan Program (HMP).

3. On May 21, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA case was closing, effective June 1, 2019. Exhibit A, pp. 15-18.
4. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

### **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 is a disabled [REDACTED]-year old who lives in a household that includes herself and her husband. Both Petitioner and her husband have income from RSDI. Petitioner gets \$1,126.50 per month and her husband gets \$804.50. Her husband also works approximately 25 hours per week at a rate of pay of \$18.50 per hour. Thus, his monthly earned income is approximately \$1,850. Petitioner objected to the Department's closure of her MA benefits case, effective June 1, 2019. According to the Department's testimony during the hearing, prior to the closure, Petitioner was an active recipient of MA benefits under the HMP. However, that case was closed due to the Department's finding that Petitioner no longer was eligible for the coverage due to having excess income.

Before closing any type of MA case, the Department must conduct an *ex parte* review to determine whether the client may be eligible under another category. BAM 220 (January 2019), pp. 18-19. When the review shows that the client may be eligible under another MA category, the Department must either change the coverage to that category or attempt to clarify any questions regarding eligibility by sending out verification checklist(s) to gather the missing eligibility-related information. BAM 220, pp. 18-19. The Department may only issue a notice closing the MA case after the *ex parte* review reveals that there is no potential eligibility under another MA category. BAM 220, p. 19.

The Department's notice closing Petitioner's MA benefits cases demonstrates that the Department failed to do an adequate *ex parte* review. Petitioner is disabled, yet the document states that she is not eligible for SSI-related MA because she is "not...disabled." Clearly, when the Department closes an MA case and denies

coverage based on a knowingly wrongful set of facts, it did not meet its obligations to conduct a thorough *ex parte* review of eligibility. According to a brief review of Petitioner's information, it appears that Petitioner may be eligible for coverage under the G2S program, which is an SSI-related MA category. BEM 166 (April 2017), p.1. However, rather than providing that coverage, the Department closed Petitioner's MA case.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for MA and MSP benefits, effective January 1, 2019.

### **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. Reinstate Petitioner's MA benefits back to the date of closure;
2. Redetermine Petitioner's eligibility for MA benefits from the time of closure going forward, which involves analyzing Petitioner's eligibility under all MA categories;
3. If there are any eligibility-related factors that remain unclear, inconsistent, contradictory, or incomplete, request verifications pursuant to Department policy;
4. If Petitioner is eligible for additional benefits that she did not receive, promptly issue a supplement; and
5. Notify Petitioner in writing of its decisions.

JM/cg

  
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**John Markey**  
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

**Via Email:**

MDHHS-Wayne-15-Hearings  
D. Smith  
EQAD  
BSC4- Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

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