



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: January 21, 2020  
MOAHR Docket No.: 19-013059  
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 January 15, 2020 from Detroit, Michigan. Petitioner was represented by Authorized Hearing Representative ██████████ who is also Petitioner's father. Also appearing on behalf of Petitioner was Petitioner's mother, ██████████. The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearings Facilitator. During the hearing, a ten-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-10.

**ISSUE**

Did the Department properly close Petitioner's Medicaid (MA) case under the Freedom to Work (FTW) category, effective December 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 was an ongoing recipient of MA benefits under the FTW.
2. ██████████ was designated as Petitioner's payee and took care of ensuring that any necessary premiums were paid.
3. In June 2019, Ms. ██████████ sent a check covering seven months' worth of premiums for Petitioner's FTW coverage to the vendor who contracts with the Department to administer the FTW program. Included with the check was a reference to Petitioner's case.

4. On August 7, 2019, the Department's vendor issued to Ms. Campbell a letter stating "[y]ou made a payment to Freedom to Work. Enclosed is a refund check because you do not owe this money." Exhibit A, p. 6.
5. On November 13, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA case was closing, effective December 1, 2019. Exhibit A, pp. 7-10.
6. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the November 13, 2019 Health Care Coverage Determination Notice.

### **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 was an ongoing recipient of MA benefits under the FTW category until the Department closed his MA benefits case, effective [REDACTED], 2019. The Department's position is that it closed Petitioner's case after Petitioner failed to pay a premium that was due. The evidence on the record shows that Petitioner's agent, Ms. [REDACTED] did pay the premium, but for whatever reason the FTW program vendor returned the premium to Ms. [REDACTED]. The vendor then notified the Department that Petitioner had not paid his premium. The Department then closed the case.

As a disabled individual with earned income, Petitioner was eligible for benefits under the FTW MA program. FTW is an SSI-related full-coverage MA program. BEM 174 (January 2017), p. 1. Initial income eligibility exists when the client's countable income does not exceed 250 percent of the Federal Poverty Level (FPL). BEM 174, p. 3. Ongoing eligibility exists when the client's unearned income does not exceed 250 percent of the FPL. BEM 174, p. 3. The Department determines countable earned and unearned income according to SSI-related MA policies in BEM 500, 501, 502, 503, 504, and 530. BEM 174, p. 3. The Department determines income deductions using BEM 540 (for children) or 541 (for adults). BEM 174. Unemployment compensation benefits are not countable income for FTW. BEM 174, p. 3.

Petitioner was not married, and per policy, his fiscal group size for SSI-related MA benefits is one. BEM 211 (February 2019), p. 8. 250% of the annual FPL in 2019 for a household with one member is \$31,225. See <https://aspe.hhs.gov/poverty-guidelines>. As Petitioner's income was below that amount, Petitioner was eligible for FTW coverage.

Depending on an individual's income, FTW coverage may be provided either with or without a premium. BEM 174, p. 3. There are no premiums for individuals with Modified Adjusted Gross Income (MAGI) less than 138% of the FPL. BEM 174, p. 3. A premium of 2.5% of income will be charged for an individual with MAGI income of between 138% of the FPL and \$75,000 annually. BEM 174, p. 3.

The Department's November 13, 2019 Health Care Coverage Determination Notice indicated that Petitioner's annual income was determined to be \$21,936, which is between 138% of the FPL and \$75,000. Based on that annual income, Petitioner was responsible for an annual premium for FTW.

The evidence on the record shows that Petitioner paid that premium to the vendor through an agent, who referenced Petitioner's case. The evidence further shows that the vendor returned the payment to Petitioner's agent with a note that said "you do not owe this money." The vendor then informed the Department that the payment was not made, resulting in the Department's decision to close Petitioner's MA case. Petitioner's case was closed for failing to make premium payments that were, in fact, made. As those payments were made, the alleged nonpayment of the same cannot form the basis for taking negative action against Petitioner.

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 not act in accordance with Department policy when it closed Petitioner's MA benefits case under the FTW, effective December 1, 2019.

### **DECISION AND ORDER**

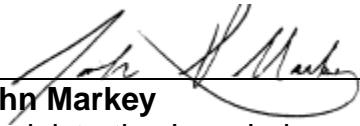
Accordingly, the Department's decision is **REVERSED**.

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 under the FTW back to December 1, 2019;
2. If any eligibility-related factors are unclear, inconsistent, contradictory, or incomplete, follow Department policy in requested and obtaining verifications;

3. If Petitioner is eligible for additional benefits that were not provided, ensure that a supplement is promptly issued; and
4. Notify Petitioner in writing of its decisions.

JM/tlf

  
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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-Ingham-Hearings  
BSC2 Hearing Decisions  
EQAD  
D. Smith  
MOAHR

**Petitioner – Via USPS:**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Authorized Hearing Rep. – Via USPS:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]