



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: February 7, 2020  
MOAHR Docket No.: 19-013639  
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 telephone hearing was held on February 6, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Nicole Doss, specialist.

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) 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 November 2019, Petitioner was an ongoing recipient of Medicaid.
2. On November 13, 2019, MDHHS mailed Petitioner a New Hire Client Notice requesting information of Petitioner's employment with Jand Inc. (hereinafter, "Employer") by November 25, 2019.
3. On November 27, 2019, MDHHS initiated a termination of Petitioner's Medicaid eligibility, effective January 2020, due to Petitioner's failure to return the New Hire Client Notice.

4. As of December 9, 2019, Petitioner had not returned the New Hire Client Notice dated November 13, 2019.
5. On [REDACTED], 2019, MDHHS received Petitioner's hearing request disputing the termination of Medicaid.

### **CONCLUSIONS OF LAW**

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. MDHHS 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 Medicaid. Exhibit A, p. 4. A Health Care Coverage Determination Notice dated November 27, 2019, informed Petitioner that her Medicaid was being terminated, beginning January 2020, due to Petitioner's failure to verify information. Exhibit A, pp. 7-8. Specifically, MDHHS alleged that Petitioner failed to return information regarding recently obtained employment.

MDHHS routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 (October 2018), p. 1. The State New Hires Match is a daily data exchange of information collected by the Michigan New Hire Operations Center and obtained through the Office of Child Support. *Id.* State New Hires information is used to determine current income sources for active MDHHS clients. *Id.*

When a new hire match occurs, MDHHS specialists are to contact the client immediately if the employment has not been previously reported. *Id.* Verification of the client's employment income is to be requested via DHS-4635, New Hire Notice. *Id.* When a DHS-4635 is requested, the client has 10 calendar days to provide verification from the date that the form was requested. *Id.*, p. 2. If verifications are returned, the client's case should be updated accordingly. *Id.* If verifications are not returned by the 10<sup>th</sup> day, case action will be needed to close the case. *Id.*

MDHHS mailed Petitioner a New Hire Client Notice on November 13, 2019, requesting information of Petitioner's income from Employer. Exhibit A, pp. 5-6. The form included Petitioner's acknowledged mailing address from the time of mailing. The due date for the return of the form was November 25, 2019. It was not disputed that Petitioner did not return the form to MDHHS by the due date.

Petitioner testified that she did not return the New Hire Client Notice only because she did not receive it. Petitioner testified that she is very organized and would not have jeopardized her Medicaid eligibility by not returning information to MDHHS.

MDHHS responded by testifying that the New Hire Client Notice form was sent to Petitioner via “central” printing. A central printing is printed and mailed by a consolidated print center. The consolidated print center is known to print documents, place them in envelopes, and stamp them for mailing. Thus, a “central” printed mailing minimizes human error and is considered a highly reliable method of preparing documents for mailing.

Given the evidence, MDHHS properly mailed a New Hire Client Notice to Petitioner. As Petitioner failed to return the New Hire Client Notice to MDHHS by the due date, MDHHS properly initiated termination of Petitioner’s Medicaid eligibility on November 27, 2019.

Petitioner testified that she attempted to call her assigned MDHHS specialist on December 12, 2019, in an effort to continue receiving Medicaid benefits. Petitioner also testified that her specialist’s voicemail was full, and therefore, she was unable to speak with her specialist. Petitioner’s testimony implied an argument that MDHHS was partially responsible for Medicaid closure because had her specialist responded to Petitioner’s phone call, perhaps Petitioner’s Medicaid case would not have closed.

A negative action is a MDHHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (April 2019) p. 1. A closure of MA benefits is a negative action requiring timely notice. *Id.*, p. 4. A timely notice is mailed at least 11 days before the intended negative action takes effect. *Id.*, pp. 4-5. The action is pended to provide the client a chance to react to the proposed action. *Id.* Negative actions are to be deleted if a client complies with the reason for the negative action before the negative action date. *Id.*, p. 13. Bridges automatically sets all negative action effective dates based on the rules for each program and the date the action is processed in the system. *Id.*, p. 13. The negative action date on Bridges is the day after the timely hearing request date on the Bridges notice of case action. *Id.*

In response to Petitioner, Petitioner’s specialist stated that she is a very diligent worker who is responsive to phone calls and would not allow her voicemail to fill. As an example, she stated that, as of the hearing, she has no voicemails on her work phone. Even if Petitioner failed to speak with her specialist on December 12, 2019, only because of her specialist’s full voicemail, Petitioner’s attempt to avoid case closure was too late.


MDHHS did not present the final page of the closure notice which would have included the timely hearing request date. Despite its absence, the negative action date can be sufficiently estimated. MDHHS sent notice of Medicaid closure to Petitioner on November 27, 2019. Adding 11 days to the notice’s mail date results in a negative action date no later than December 9, 2019. Petitioner’s call to her specialist on December 12, 2019, occurred after her case was already closed. Thus, there was no action that Petitioner could have taken on December 12, 2019, that could have cured her failure to return the New Hire Client Notice.

Based on the evidence, MDHHS properly terminated Petitioner's MA eligibility beginning January 2020. As discussed during the hearing, Petitioner's recourse is to reapply for Medicaid.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's Medicaid eligibility beginning January 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/cg

  
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**Christian Gardocki**  
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-Oakland-2-Hearings  
D. Smith  
EQAD  
BSC4- Hearing Decisions  
MOAHR

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

