



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: February 28, 2020  
MOAHR Docket No.: 20-000280  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 26, 2020, from Detroit, Michigan. Petitioner (a minor child) was represented by his parents/Authorized Hearing Representatives (AHR), [REDACTED] and [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

### **ISSUE**

Did the Department properly close Petitioner's Medical Assistance (MA) benefit case?

### **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 MA Supplemental Security Income (SSI) recipient.
2. Effective August 1, 2019, Petitioner's SSI benefit case closed.
3. On October 18, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he was no longer eligible for MA benefits effective November 1, 2019, ongoing (Exhibit A, pp. 9-11).
4. On [REDACTED], 2020, Petitioner's AHR submitted a request for hearing disputing the Department's actions.

## **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's SSI benefit case closed effective August 1, 2020. Petitioner's AHR testified that Petitioner's SSI benefit case closed due to excess income. As a result, the Department closed Petitioner's SSI MA benefit case effective November 1, 2019, ongoing.

The Department administers MA for SSI recipients, including a continued MA eligibility determination when SSI benefits end. BEM 150 (April 2017), p. 1. SSI recipients who are Michigan residents receive MA-SSI coverage for the duration of SSI eligibility. BEM 150, p. 6. When SSI benefits stop, the Department evaluates the reason based on the SSA's negative action code, then either closes the MA-SSI case if SSI stopped for a reason that prevents continued MA eligibility (such as death or lack of Michigan residency) or transfers the client's MA case to SSIT type of assistance until a redetermination is completed to allow for an ex parte review of the client's eligibility for other MA categories. BEM 150, p. 6.

During the ex parte review, the Department must consider the client's eligibility for coverage under all MA categories. BEM 150, p. 7. The Department must send the client and her authorized representative a redetermination packet that includes the DCH-1426, Application for Health Coverage & Help Paying Cost, and the word version of the DHS-3503 Verification Checklist, marked with all verifications required for MA. BEM 150, p. 7. A determination of eligibility for another MA program or total ineligibility for any program must be completed before SSIT can close. BEM 150, p. 7. When the ex parte review shows that a recipient does have eligibility for MA under another category, the Department must change the coverage. BAM 220, p. 17. If MA eligibility does not exist, the Department will send a negative action notice. BEM 150, p. 7.

The Department presented sufficient evidence to establish that Petitioner's SSI benefits ended. However, the Department did not present any evidence that it properly completed an ex parte review. The Department testified that Petitioner received SSIT between September 1, 2019 and October 31, 2019. However, the Department was

unsure as to whether Petitioner was sent a new application. Petitioner's AHR testified that she did not receive a new application for Petitioner. In the absence of such evidence, the Department failed to follow that it followed policy when it closed Petitioner's MA case.

### **DECISION AND ORDER**

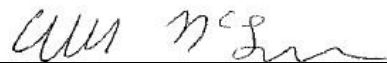
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA benefit case.

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 case effective November 1, 2019;
2. Conduct an ex parte review of Petitioner's ongoing MA eligibility;
3. Provide Petitioner with any MA coverage he is eligible to receive from November 1, 2019, ongoing; and
4. Notify Petitioner's AHR of its MA decision in writing.

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**Ellen McLemore**  
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-19-Hearings  
D. Smith  
EQAD  
BSC4- Hearing Decisions  
MOAHR

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

