



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 1, 2019  
MAHS Docket No.: 18-013874  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 February 28, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Dionere Craft, Hearings Facilitator, and Bridget King, Family Independence Specialist. During the hearing, a 20-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-20.

**ISSUE**

Did the Department properly close Petitioner's Medical Assistance (MA) benefits case under the Medicare Savings Plan (MSP)?

**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 MSP.
2. On November 5, 2018, the Department issued to Petitioner's address of record a Redetermination form in order to gather relevant information regarding Petitioner's ongoing eligibility for MSP benefits. The completed form was required to be returned by December 5, 2018. The instructions stated that failure to timely return the completed form could result in the closure of the benefits case. Exhibit A, pp. 10-17.

3. The Redetermination was returned to the Department as undeliverable. Thus, Petitioner never received any notice that he was required to take action to prevent the closure of his MSP benefits case. Exhibit A, pp. 8-9.
4. On December 14, 2018, the Department issued to Petitioner's same address of record a Health Care Coverage Determination Notice informing Petitioner that his MSP benefits case was closing, effective January 1, 2019, due to Petitioner's failure to return the completed Redetermination that he never received. Exhibit A, pp. 4-7.
5. On December 26, 2018, Petitioner went to a DHHS office to inquire about the December 14, 2018 Health Care Coverage Determination Notice. While there, Petitioner submitted a request for hearing challenging the closure of his MSP benefits case. Exhibit A, pp. 2-3.
6. On January 7, 2019, the Department issued to Petitioner's same address of record a Hearing Summary packet consisting of what was admitted as Exhibit A, pp. 1-20. The packet was returned to the Department as undeliverable.
7. On February 15, 2019, the Michigan Administrative Hearing System issued to Petitioner's same address of record, a Notice of Hearing informing Petitioner of the hearing held in the instant matter. Petitioner received that notice and appeared at the hearing. While at the hearing, he was provided with the Redetermination for the first time.

### **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.

There are three categories of MSP benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums

provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. BEM 165 (January 2018), pp. 2-4. Full-coverage QMB eligibility cannot be retroactive. BAM 115 (October 2018), p. 12.

Petitioner was an ongoing recipient of MSP benefits when the Department initiated a routine review of his eligibility for ongoing benefits by sending him a Redetermination (DHS-1010) form at his address of record. When Petitioner did not return this form by the due date, the Department issued to Petitioner a December 14, 2018 Health Care Coverage Determination Notice informing Petitioner that his MSP benefits case was closing effective January 1, 2019. See BAM 210 (January 2018). Petitioner then submitted a timely hearing request challenging the Department's closure of his MSP benefits case, effective January 1, 2019.

Periodically, the Department must redetermine or renew a client's eligibility for Department-issued benefits by the end of each benefit period. BAM 210 (January 2018), pp. 1, 4. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. If a redetermination is not completed and a new benefit period certified, benefits stop at the end of the benefit period. BAM 210, p. 4. To initiate the redetermination process, the Department issues to clients a redetermination form; that form must be completed and returned to the Department in a timely manner. BAM 210, p. 1.

In this case, the Department never served Petitioner with the redetermination form in order to initiate the redetermination process. The Department witness conceded on the record that the Department's records reflect that Petitioner never received the Redetermination and acted promptly to address the issue as soon as he received notice of the closure of his MSP benefits case. For some reason, the mail sent by the Department to Petitioner's address of record is routinely returned to the Department as undeliverable. However, the Notice of Hearing sent to that address to inform the Petitioner of the hearing in this matter was delivered. It appears as though either the Department or the United States Postal Service is doing something wrong with respect to delivering mail to Petitioner. Whatever the case may be, Petitioner has the right to be informed of matters impacting his eligibility for Department benefits. BAM 105 (January 2019), p. 14. In this case, Petitioner's case was closed because he failed to return to the Department a response to a document the Department knew Petitioner never received.

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 establish that it acted in accordance with Department policy when it closed Petitioner's MSP benefits case, effective January 1, 2019.

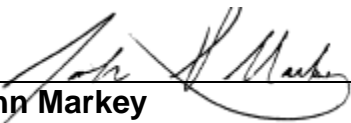
### **DECISION AND ORDER**

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 MSP benefits case, effective January 1, 2019;
2. Restart the Redetermination process by providing Petitioner with a Redetermination form, giving him an appropriate amount of time to return it, and requesting any subsequent verifications, if necessary, pursuant to Department policy;
3. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits he may thereafter be due; and
4. Issue written notice of any case action(s) in accordance with Department policy.

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via Email:**

MDHHS-Wayne-55-Hearings  
D. Smith  
EQAD  
BSC4- Hearing Decisions  
MAHS

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

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