



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: August 19, 2019  
MOAHR Docket No.: 19-006631  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 22, 2019, from ████████ Michigan. The Petitioner was present and was represented by ██████████ Power of Attorney, and ██████████ his attorney. The Department of Health and Human Services (Department) was represented by Valerie Foley.

**ISSUE**

Did the Department properly process the Petitioner redetermination for Medical Assistance (MA)?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On May 29, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) finding Petitioner eligible for Full coverage MA from April 1, 2019, through April 30, 2019, and eligible under the Freedom to Work program for the period August 1, 2018, through August 31, 2019. The HCCDN also determined the Petitioner was not eligible for MA for failure to return the redetermination as of June 1, 2019, ongoing. Exhibit A.
2. The Petitioner was an ongoing recipient of MA and is also disabled and received Retirement, Survivors and Disability Insurance (RSDI) from the Social Security Administration (SSA) in the amount of \$ 1,293.00.

3. On May 6, 2019, the Petitioner's Power of Attorney emailed the Petitioner's caseworker to transmit the Petitioner's redetermination, scanning the redetermination because the DHHS fax number was not working, and several attempts to fax the redetermination to the Department had failed. The redetermination was timely received by the Department before the due date.
4. On or about June 26, 2019, the Petitioner provided information regarding a Catholic Vantage Financial Account, [REDACTED], and Account # ending in [REDACTED] for showing account balances as of April 2019.
5. The Department's hearing summary stated that it reinstated the Petitioner's MA case when the redetermination was discovered in the caseworker's junk mail. The documents were emailed to the caseworker because the Department fax was not receiving documents. The redetermination was timely returned by Petitioner on May 6, 2019.
6. After the Petitioner's Request for hearing was received, the Department issued a verification checklist (VCL) on June 28, 2019, regarding Food Assistance Program (FAP) benefits requesting checking and savings accounts information. The verifications were due July 8, 2019. The VCL and verifications were generated after the Petitioner's June 20, 2019, hearing request appealing the closure of Petitioner's MA case due to failure to return the redetermination. Because the VCL was sent after the hearing request, any issue regarding the VCL or verifications are not before the undersigned. Exhibit C.
7. At the time of the hearing, the Petitioner's MA case was closed and was not pending or reinstated as represented by the Department in its Hearing Summary dated June 28, 2019. The Department also sent out a VCL for checking account information on June 28, 2019, but the verification was for the FAP not the MA program. Exhibit C.
8. On June 20, 2019, the Petitioner's attorney filed a timely request for hearing.

### **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, the Petitioner's MA case was closed due to alleged failure to return a redetermination regarding his MA benefits; and the Department issued a HCCDN to that effect on May 29, 2019, closing his MA case effective April 1, 2019. Exhibit A. Thereafter, based upon the Department's Hearing Summary filed by the Department after receipt of Petitioner's June 20, 2019, request for hearing, the Department caseworker wrote that the redetermination was received by email on May 6, 2019, and was timely, except that the redetermination went to her junk mail. Once the Redetermination was determined to be timely, the Department was required to reinstate the MA case and process the redetermination.

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors.

A redetermination is an eligibility review based on a reported change.

A complete redetermination/renewal is required at least every 12 months. Bridges sets the redetermination/renewal date according to benefit periods; BAM 210 (April 2019), p. 1.

Once a redetermination is received, the Department must process the redetermination and review the document and verify eligibility factors. No proof that this step of the process was completed by the Department based upon its admission that the MA case remained closed in the Department Bridges System notwithstanding it was timely filed with verifications.

MA benefits stop at the end of the benefit period **unless** a renewal is completed and new benefit period is certified. BAM 210, p. 2.

BAM 205 requires that Medicaid be if the eligibility ends the month of or later than the month of potential reinstatement. Reinstatement restores a closed program to active status without completion of a new application, closed programs may be reinstated for any of the following reasons:

- Closed in error
- Closed- correct information not entered.
- Redetermination packet not logged in
- Hearing decision ordered reinstatement
- Complied with program requirements before negative action date.

BAM 205 (January 2018), p. 1.

In this case, the Department, notwithstanding its representation that it reinstated the MA case, the record did not indicate such was the case. The closure was due to the fax not

working after numerous attempts to fax the redetermination to the number provided by the Department and the email containing the redetermination going to the caseworker's junk mail. Under these circumstances, the MA case should be reinstated for several of the above reasons, including but not limited to agency error. The Bridges System determines eligibility for the month of reinstatement and any months during which the program was closed, as if the program had not been closed. BAM 205, p. 2.

The Petitioner's attorney and the POA credibly testified that they attempted numerous times to fax the redetermination to the Department, and the fax continuously failed to go through so the redetermination was emailed to the caseworker. In addition, the Petitioner's POA credibly testified that the caseworker was left phone messages to alert her to the email and did not return the phone calls. Under these factual circumstances, it is determined that the Petitioner's MA case must be reinstated because the Petitioner's redetermination was timely received and must be processed by the Department. In the future, the Petitioner must either file the redetermination by mail if the fax number is not working or file documents in person at the Department offices.

Based upon the facts presented, the Department did not meet its burden of proof to show that it properly processed the Petitioner's MA redetermination which was timely received. The Department testified that the MA had not been reinstated as stated in the June 28, 2019, Hearing Summary; and the VCL sent by the Department was not for MA benefits but for FAP benefits. Therefore, the Department did not meet its burden to show that it complied with Department policy requiring it to process the redetermination and reinstate the Petitioner's MA.

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 failed to reinstate the Petitioner's MA case and process the Petitioner's redetermination.

### **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. The Department shall reinstate the Petitioner's MA case effective the date of closure April 1, 2019, and shall process the redetermination filed by Petitioner for MA and determine Petitioner's ongoing eligibility.

2. The Department shall provide written notice of its determination of Petitioner's ongoing eligibility for MA upon certifying the results of its review of the redetermination.

LMF/jaf



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**Lynn M. Ferris**

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 Electronic Mail  
**DHHS**

Susan Noel  
MDHHS-Wayne-19-Hearings

BSC4  
D Smith  
EQAD

Via First Class Mail  
**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

**Counsel for Respondent**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]