



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: August 30, 2019  
MOAHR Docket No.: 19-007669  
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 August 22, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. Also appearing on Petitioner's behalf was [REDACTED]. The Department of Health and Human Services (Department) was represented by April Nemec, Hearings Facilitator. During the hearing, a 55-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-55.

**ISSUE**

Did the Department properly close Petitioner's Medicaid (MA) benefits case, effective May 1, 2019?

Did the Department properly determine that Petitioner was ineligible for Medicare Savings Program (MSP) benefits, effective May 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 from the Department.
2. In [REDACTED] 2019, Petitioner turned [REDACTED] and began receiving Medicare.
3. On April 4, 2019, the Department issued to Petitioner a Redetermination form to gather relevant information regarding Petitioner's ongoing eligibility for MA

benefits. Petitioner filled out and returned the Redetermination to the Department on [REDACTED] 2019. Exhibit A, pp. 8-15.

4. On April 29, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that Petitioner's MA case was closing, effective May 1, 2019. Exhibit A, pp. 19-22.
5. Also on April 29, 2019, the Department initiated a review of Petitioner's eligibility for MSP benefits.
6. Also on April 29, 2019, the Department issued to Petitioner a Verification Checklist requesting various proofs regarding eligibility-related factors relevant to Petitioner's eligibility for MSP and MA benefits. Exhibit A, pp. 27-28.
7. On April 30, 2019, the Department issued to Petitioner another Verification Checklist requesting various proofs regarding eligibility-related factors relevant to Petitioner's eligibility for MSP and MA benefits. Exhibit A, pp. 30-31.
8. Petitioner provided to the Department documentation regarding her income and assets. Exhibit A, pp. 16-18; 33-42.
9. On June 24, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that Petitioner was ineligible for MA and MSP benefits, effective May 1, 2019. Exhibit A, pp. 43-46.
10. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions.
11. After the hearing request was filed, the Department pended the actions and as of the date of the hearing, was still seeking verifications from Petitioner regarding her income and assets before making a determination as to Petitioner's eligibility for MA and MSP benefits.

### **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 full-coverage MA benefits under the Healthy Michigan Plan (HMP). When Petitioner turned ■ in ■ 2019, she was placed on Medicare, causing the Department to issue to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was no longer eligible for MA under the HMP as one of the conditions of eligibility for HMP is that an individual has to be ineligible for Medicare. The Department acknowledged at the hearing that the closure was incorrect, however, as the Department miscounted Petitioner's income. Over the next couple of months, the Department pended the closure while reviewing Petitioner's eligibility for MA benefits under a different category as well as MSP. On June 24, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was ineligible for all of the MA and MSP programs as a result of Petitioner's alleged failure to timely return verifications. Petitioner filed a hearing request objecting to the actions. Subsequent to the hearing request, the Department took further action in attempting to verify Petitioner's assets. As of the date of the hearing, Petitioner's eligibility for both programs were still pending the Department's receipt and analysis of Petitioner's verifications.

During the hearing, the Department representative acknowledged that the Department's actions were in error and that the matter was still pending with the Department waiting on Petitioner's submission of verifications related to income and assets. As the actions were in error and based upon incorrect information, the actions are reversed. However, based on the information in the record, the undersigned Administrative Law Judge is without sufficient information to make a determination as to Petitioner's eligibility for either MA or MSP benefits. Accordingly, the Department must continue its process as described during the hearing.

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 found Petitioner ineligible for MA and MSP benefits, effective May 1, 2019.

### **DECISION AND ORDER**

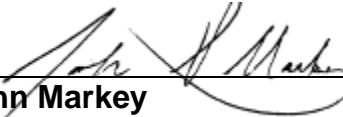
Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's eligibility for MA and MSP benefits, effective May 1, 2019, ongoing;
2. If any eligibility-related factors remain unclear, inconsistent, contradictory, or incomplete, follow Department policy in requesting and obtaining verifications;

3. If Petitioner is found to be eligible for additional benefits that were not provided, ensure that supplements are appropriately issued; and
4. Notify Petitioner in writing of its decisions.

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 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-Genesee-Union St.-Hearings  
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**Petitioner – Via First-Class Mail:**

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