



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 29, 2019  
MOAHR Docket No.: 19-007922  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**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 28, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by ██████████, Lead Assistance Payments Worker, and ██████████, Family Independence Specialist.

**ISSUE**

Did the Department properly determine and apply Petitioner's eligibility for Medical Assistance (MA) Program under the Medicare Savings Program (MSP) Qualified Medicare Beneficiary (QMB) category?

**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 January 25, 2019, Petitioner applied for the MSP.
2. On June 24, 2019, the Department mailed a New Hire Client Notice to Petitioner at her address of record with a due date of July 5, 2019.

3. By July 16, 2019, the Department had not received the completed New Hire Client Notice and issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that she was not eligible for MA under the MSP for January 2019 because clients are not eligible in the month of application, that she was eligible for full coverage MSP from February 2019 through July 2019, and that she lost her eligibility in August 2019 because she failed to return requested verifications and she was not eligible in the month of application; this was the first HCCDN issued to Petitioner regarding her MSP eligibility for any month between her application and August 2019.
4. On July 19, 2019, the Department received Petitioner's request for hearing disputing her MSP eligibility for the entire period.
5. At the hearing, the Department conceded that as of the date of the hearing, none of Petitioner's MSP benefits had been paid to the Social Security Administration.

### **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 requested a hearing disputing the Department's determinations of her MSP eligibility. The Department denied Petitioner's MSP eligibility for January 2019, provided coverage for February 2019 through July 2019 but failed to pay the benefit to the Social Security Administration (SSA), and then denied her eligibility for August 2019 because she failed to return the New Hire Client Notice.

MSP QMB coverage begins the calendar month after the processing month. BEM 165 (January 2018), pp. 3-4. The processing month is the month during which an eligibility determination is made. *Id.* QMB is not available for past months or the processing month. *Id.* Since Petitioner applied for MSP benefits in January 2019, the Department should have processed her eligibility in January 2019; therefore, the denial of her MSP eligibility for January 2019 was in accordance with Department policy.

Turning to the issue of Petitioner's coverage from February 2019 through July 2019, the Department informed Petitioner that she was eligible for coverage for these months but conceded that payments had not been made for any of these months to the SSA. The QMB plan is required to pay Medicare premiums for Part A and B, Medicare coinsurances, and Medicare deductibles. BEM 165, p. 2; BAM 810 (January 2018), p. 1. Since the Department concedes that it did not pay Petitioner's Medicare premiums from February through July, the Department has not acted in accordance with policy in providing MSP coverage to Petitioner.

Finally, the Department closed Petitioner's MSP case effective August 1, 2019 because she failed to return the completed New Hire Client Notice. The Department routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 (October 2018), p. 1. The State New Hires information is used to determine current income sources for active Department clients. *Id.* It is based off of W-4 tax records submitted by employers to the Michigan New Hire Operations Center. *Id.* If a Social Security Number (SSN) match is made with the State New Hires database, the Department is required to request verification of the income by generating a DHS-4635 New Hire Client Notice. *Id.* The Department then gives the client ten calendar days to provide the requested verification from the date that the forms were requested. BAM 807, p. 2. If verifications are not returned by the tenth day, the Department issues a case action to close the case. *Id.*

The Department mailed the New Hire Client Notice to Petitioner's address of record on June 24, 2019. Petitioner testified credibly that she did not receive the notice. However, Petitioner also testified that she has been having problems with her mail for the last two years, has not filed a complaint with the United States Postal Service, and has not taken any steps, such as obtaining a Post Office Box, to try to resolve the matter. The Department also testified that the notice was not returned as undeliverable. Therefore, because Petitioner was aware of ongoing problems with her mail and took no measures to try to resolve the problem, her failure to receive the notice is through no fault of the Department and it has fulfilled its obligations pursuant to policy. Since the Department did not receive the completed New Hire Client Notice by the due date, the Department properly closed Petitioner's MSP case.

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 acted in accordance with Department policy when it denied Petitioner MSP coverage for January 2019 and denied Petitioner MSP coverage for August 2019; however, the Department did not act in accordance with Department policy when it failed to issue payments for coverage of Petitioner's MSP benefits from February 2019 through July 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. Issue MSP supplements or payments not previously made on Petitioner's behalf for MSP benefits between February 2019 and July 2019.



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**Amanda M. T. Marler**

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

**DHHS**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
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[REDACTED]  
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**cc:**

[REDACTED]  
[REDACTED]