



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: October 4, 2019  
MOAHR Docket No.: 19-009035  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 October 2, 2019 from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

### **ISSUE**

Did Petitioner submit a timely hearing request?

Did the Department properly close Petitioner's Medical Assistance (MA) Program benefits based upon excess assets?

Did the Department properly deny Petitioner's Application(s) for Medical Assistance (MA) Program benefits for failure to verify requested information?

### **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 14, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that his MA benefits were closing due to excess assets.

2. On May 30, 2019, the Department completed an Asset Detection showing that Petitioner had a joint checking account with ██████████ Bank ending in ██████ and a second joint checking account with ██████ ending in ██████.
3. On ██████, 2019, Petitioner submitted an Application for MA benefits.
4. On July 25, 2019, the Department issued a Verification Checklist (VCL) requesting proof of a checking account for Petitioner and his wife and a savings account for Petitioner with proofs due by August 5, 2019 for the Medical Assistance (MA) Program.
5. On the same day the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him that he was ineligible for MA benefits because he failed to verify requested information.
6. On July 30, 2019, the Department issued another VCL to Petitioner requesting proof of his bank accounts by August 9, 2019 for the Medicare Savings Program (MSP).
7. On the same day, the Department received a one-page bank statement from ██████ for an account ending in ██████ which showed the account holders but did not list the account balance or the transaction history.
8. In total, Petitioner received six VCLs between May 1, 2019 and August 30, 2019.
9. On August 6, 2019, the Department issued a HCCDN to Petitioner informing him that he was ineligible for MA benefits effective July 1, 2019 for failure to verify or allow the Department to verify information necessary to determine eligibility.
10. According to the Department's Electronic Case File records, the Department received Petitioner's bank verifications for accounts ending in ██████ and ██████ from ██████; however, it is noted that on each verification there is a stamp indicating that the documents were received by the Department on July 2<sup>nd</sup>.
11. On August 16, 2019, the Department received Petitioner's request for hearing disputing the denial of MA benefits based upon excess assets and a failure to verify requested information.

### **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 to dispute the Department's closure of his MA benefits due to excess assets and the Department's denial of MA benefits due to a failure to verify requested information. The HCCDN issued to close Petitioner's MA benefits was sent to Petitioner on May 14, 2019. The HCCDN issued to Petitioner denying his MA Application for failure to verify information was sent to him on July 25, 2019 and August 6, 2019. Policy provides that clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (October 2018), p. 6. Policy further provides that the request for hearing must be received in the local office within the 90-day timeline. *Id.* Petitioner submitted his hearing request on August 16, 2019. Therefore, Petitioner's hearing request is outside the 90-day period to request a hearing based on the May 14, 2019 HCCDN; however, Petitioner's request is timely based upon the July 25, 2019 and August 6, 2019 HCCDN. Thus, the May 14, 2019 portion of the hearing request is not addressed by this decision because it is untimely and outside of the jurisdiction of Michigan Office of Administrative Hearings and Rules (MOAHR) but the July 25, 2019 and August 6, 2019 portion of the hearing request is addressed below.

The July 25, 2019 the Department issued a HCCDN denying Petitioner's Application for MA coverage because Petitioner failed to verify requested information. On multiple occasions the Department sought verifications of Petitioner's checking accounts via multiple VCL. Only one of the six VCL was submitted as evidence in this hearing and it was issued on July 25, 2019 with a due date of August 5, 2019. The VCL requests proof of "Checking Account" and "Savings Account/Christmas Club Account" and indicates that examples of requested proofs include "Current statement from bank or financial institution" or "DHS 20 Verification of Assets" for both items. No further clarification is provided on the VCL regarding the items needed by the Department.

Assets are used in determining eligibility for MA and Medicare Savings Program (MSP) benefits. BEM 400 (January 2019), pp. 1, 6-8. Therefore, the Department's attempt to verify Petitioner's bank accounts and property ownership are in accordance with Department policy.

Petitioner argues that part of the problem he encountered this summer with all of the VCLs and his attempts to verify information was that the Department did not clearly identify the information he needed to submit. Petitioner did not realize that the Department was seeking information about an account held in his, his wife's, and his stepdaughter's name for the benefit of his stepson-in-law. He had never mentioned this

account to the Department because he did not attribute the account to himself but instead to his stepdaughter and stepson-in-law. Furthermore, Petitioner argues that he did not become clear on the expectations of the Department until a telephone conversation with his case worker on June 30, 2019 at which time she identified the accounts in question by phone and informed Petitioner that he had until August 9, 2019 to submit the verifications. The August 9<sup>th</sup> due date was attributable to the June 30, 2019 VCL.

The Department is required to verify household circumstances at Application, Redetermination, and for reported changes affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. The Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Typically to accomplish this objective, the Department issues a VCL or a specific form to be filled out. In MA cases, the Department provides the client with ten calendars to provide the requested items. BAM 130, p. 8. The deadline can be extended up to two times so long as the client has made a reasonable effort, the Department has attempted to assist, and the client has requested the extension. *Id.* Case action notices are sent when the client indicates a refusal to provide a verification or when the time period given has lapsed. *Id.*

The VCL issued by the Department and submitted as evidence in this case does not clearly identify the accounts in question and because Petitioner had never identified the accounts in question to the Department, the Department should have listed them on the VCL for clarification purposes. Instead, the Department issued multiple VCLs requesting the same or similar items without providing any clarification until the final VCL was issued, only then was there a clarification by phone of what was expected. However, despite the clarification of the items needed, the Department informed Petitioner that he had until August 9, 2019 to submit his verifications even though he had an earlier due date of August 5, 2019 for the same items for the MA p. Since the Department failed to identify the accounts in question on the VCL in accordance with policy (BAM 130, p. 3) and because the Department identified the later verification due date prompting Petitioner to believe that he had more time than what he actually had, the Department did not act in accordance with Department policy.

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 did not act in accordance with Department policy when it denied Petitioner's MA Application from July 2019 based upon Petitioner's failure to verify assets.

### **DECISION AND ORDER**

Petitioner's request for hearing as it relates to the May 14, 2019 HCCDN is DISMISSED as untimely.

The Department's decisions from July 25, 2019 and August 6, 2019 are **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 [REDACTED], 2019 Application for MA benefits;
2. Redetermine Petitioner's MA eligibility;
3. If Petitioner is otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
4. Notify Petitioner in writing of its decision.



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**Amanda M. T. Marler**

Administrative Law Judge

for Robert Gordon, Director

Department of Health and Human Services

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**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**

Susan Noel  
26355 Michigan Ave  
Inkster, MI  
48141

**Petitioner**

[REDACTED], MI

ME—D. Smith; EQADHShearings  
AP Specialist-Wayne County