



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], MI [REDACTED]

Date Mailed: October 8, 2019  
MOAHR Docket No.: 19-009140  
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 October 3, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Silvester Williams, Assistance Payments Supervisor. During the hearing, a 22-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-22.

### **ISSUE**

Did the Department properly close Petitioner's Medicaid (MA) benefits case, effective August 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. On [REDACTED], 2019, Petitioner submitted to the Department an application for MA benefits. Exhibit A, pp. 3-14.
2. For some reason, the Department registered the application as having been received on June 3, 2019. Petitioner was initially found eligible for MA benefits under the full-coverage Healthy Michigan Program (HMP) and received that coverage from June 1, 2019 through July 31, 2019.

3. Once it was discovered that Petitioner was enrolled in Medicare, the Department issued to Petitioner a July 16, 2019 Health Care Coverage Determination Notice informing Petitioner that she was not eligible for MA benefits under the HMP, effective August 1, 2019. Exhibit A, pp. 17-19.
4. On July 25, 2019, the Department issued to Petitioner a Verification Checklist requesting information regarding Petitioner's assets in order to determine Petitioner's eligibility for other MA programs. The required documentation was due by August 5, 2019. Exhibit A, p. 20.
5. On August 6, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was not eligible for MA coverage, effective August 1, 2019, as a result of Petitioner's failure to timely return the requested verifications. Exhibit A, pp. 21-22.
6. On August 16, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

### **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 objected to the Department's closure of her MA case, effective August 1, 2019. Upon receiving Petitioner's initial application for MA coverage, the Department erroneously enrolled Petitioner in the full-coverage HMP, even though Petitioner was on Medicare. Once that error was discovered, the Department issued Petitioner a notice informing her that her HMP coverage would end effective August 1, 2019. At the same time, the Department began assessing Petitioner's eligibility under other MA programs. While HMP does not have an asset limit, the other programs Petitioner could have potentially qualified for do have asset limits. Thus, the Department sought to verify whether Petitioner was asset eligible for those other programs by sending out the July 25, 2019 Verification Checklist. After Petitioner did not provide anything to the Department by the deadline, the Department issued another notice finding Petitioner ineligible for failing to verify her assets.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (April 2017), p. 1-4.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) **are 19 to 64 years of age**; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (January 2019), p. 1. **HMP does not have an asset test.** BEM 137, p. 4.

Because Petitioner was enrolled in Medicare, she was ineligible for the HMP at all times relevant to this matter. As that was the coverage she was receiving at the time the Department issued the July 16, 2019 Health Care Coverage Determination Notice, the Department's decision to end that coverage, effective August 1, 2019, was in accordance with Department policy.

As the Department was aware of the impending closure of Petitioner's HMP case due to Petitioner's enrollment in Medicare, the Department sought to obtain further information from Petitioner in order to determine whether Petitioner was eligible for any other MA coverage from the Department. As Petitioner was not under the age of 19, pregnant, or the caretaker of a child, the only remaining categories that Petitioner could have been eligible for were under the SSI-related MA categories. BEM 105, pp. 1-4.

Assets must be considered in determining eligibility for SSI-related MA benefits. BEM 400 (February 2019), p. 1. Assets included checking and investment accounts. BEM 400, p. 1. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 7.

Verification is usually required at application/redetermination, *ex parte* review, and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department sends a negative case action when either the client indicates a refusal to provide a verification or the time period given has elapsed. BAM 130, p. 8.

In this case, the Department properly provided timely notice to Petitioner that her MA benefits under the HMP were ending, effective August 1, 2019, as Petitioner was not eligible for that coverage due to her enrollment in Medicare. Prior to closure, the Department properly initiated a review to determine whether Petitioner was eligible


under any other MA programs. Given that the HMP has no asset limit whereas the other programs for which Petitioner may have qualified did, the Department needed information regarding Petitioner's assets. In furtherance of that objective, the Department issued to Petitioner a Verification Checklist requesting the necessary documentation. Petitioner did not provide the requested documentation by the deadline nor did she request an extension. As a result, the Department was unable to determine that Petitioner was eligible. Accordingly, it followed Department policy and issued the notice informing Petitioner that she was not eligible for MA benefits because she failed to provide requested verifications.

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 closed Petitioner's MA benefits case, effective August 1, 2019.

**DECISION AND ORDER**

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

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-Oakland-3-Hearings  
D. Smith  
EQAD  
BSC4- Hearing Decisions  
MOAHR

**Authorized Hearing Rep. –  
Via First-Class Mail:**

[REDACTED], MI [REDACTED]

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

[REDACTED], MI [REDACTED]