



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: October 16, 2019  
MOAHR Docket No.: 19-009548  
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 10, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist. During the hearing, a 25-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-25.

**ISSUE**

Did the Department properly close Petitioner's Medicaid (MA) benefits case under the Healthy Michigan Program (HMP), effective September 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 has Type I Diabetes and is insulin dependent. He lives in a household with his son, who was born in [REDACTED], and his live-in girlfriend.
2. Petitioner was an ongoing recipient of full-coverage MA from the Department under the HMP.
3. In 2017, Petitioner submitted to the Department an application for State Disability Assistance (SDA). On the application, Petitioner asserted that he was disabled. The application was denied without the Department having ever made any determination regarding Petitioner's disability status.

4. On July 23, 2019, Petitioner submitted to the Department a completed online Redetermination. On the submission, Petitioner indicated that he obtained new employment. Petitioner disclosed that he worked approximately [REDACTED] hours per week and earned [REDACTED] per hour. Exhibit A, pp. 7-11.
5. On [REDACTED], 2019, Petitioner submitted to the Department an application for MA benefits. On the application, Petitioner once again indicated to the Department that he was disabled. Exhibit A, pp. 16-21.
6. On August 14, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that his MA benefits case was closing, effective September 1, 2019. The reason given was that Petitioner's income exceeded the limit for program eligibility. Exhibit A, pp. 12-15.
7. On August 22, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of his MA benefits case and refusal to consider Petitioner's eligibility for MA benefits based on his asserted disability.

### **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 closure of his MA benefits case under the HMP after the Department determined that Petitioner's income exceeded the limit for program eligibility. Prior to the Department closing Petitioner's MA benefits case, the Department did not act upon Petitioner's repeated assertions that he was disabled nor did it analyze Petitioner's eligibility under the Group 2 Caretaker (G2C) plan.

Before closing any type of MA case, the Department must conduct an *ex parte* review to determine whether the client may be eligible under another category. BAM 220 (January 2019), pp. 18-19. When the review shows that the client may be eligible under another MA category, the Department must either change the coverage to that category or attempt to clarify any questions regarding eligibility by sending out verification checklist(s) to gather the missing eligibility-related information. BAM 220, pp. 18-19.

The Department may only issue a notice closing the MA case after the *ex parte* review reveals that there is no potential eligibility under another MA category. BAM 220, p. 19.

When the Department issued a notice closing Petitioner's MA benefits cases, it failed to appropriately analyze Petitioner's eligibility under other categories. According to a brief review of Petitioner's information, it appears that Petitioner may be eligible for coverage under the Freedom to Work (FTW) program, which is available to clients with disabilities aged 16 through 64 who have earned income. BEM 174 (January 2017), p. 1 or the G2C program, which is available to parents and other caretaker relatives. BEM 135 (October 2015), p. 1. During the hearing, the Department witness conceded that the *ex parte* review was not properly done in this case and could not adequately explain why Petitioner was not eligible for any MA benefits from the Department given his situation.

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 determined Petitioner's eligibility for MA benefits, effective September 1, 2019.

### **DECISION AND ORDER**

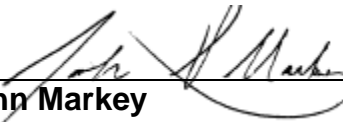
Accordingly, the Department's decision is **REVERSED**.

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. Reinstate Petitioner's MA benefits back to the date of closure as the closure was done without properly conducted an *ex parte* review of Petitioner's eligibility under other MA categories;
2. Properly determine the validity of Petitioner's claim that he is disabled pursuant to Department policy;
3. Determine Petitioner's eligibility for MA benefits, which involves analyzing Petitioner's eligibility under all MA categories, including Freedom to Work and G2C;
4. If there are any eligibility-related factors that remain unclear, inconsistent, contradictory, or incomplete, request verifications pursuant to Department policy;
5. If Petitioner is eligible for additional benefits that he did not receive, promptly issue a supplement; and

6. Notify Petitioner in writing of its decisions.

JM/tm



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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

**DHHS**

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

**Petitioner**

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

**CC:**

[REDACTED]  
[REDACTED]