



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: December 23, 2019
MOAHR Docket No.: 19-010863
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 hearing was held on November 27, 2019 from Lansing, Michigan. Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was initially represented by Nicole Carey, APS. Mr. Freeman was able to enter the hearing about halfway due to a prior commitment.

ISSUE

Did the Department properly close Petitioner's QMB?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times prior to January 2019, Petitioner, a [REDACTED]-year-old social security recipient was a QMB recipient with the Department.
2. On [REDACTED] [REDACTED] [REDACTED] Petitioner filed a hearing request due to not having received QMB payments since January 2019.
3. On September 9, 2019 the Department issued a denial/closure letter informing Petitioner that his QMB will close effective July 1, 2019 and ongoing.
4. On [REDACTED], 2019 Petitioner reapplied in person and spoke with his worker. At that time Petitioner's worker told him that all verifications were received, and his application will be reprocessed.

5. "Undenounced" to Petitioner's worker, after Petitioner left the office on July 26, 2019 the worker discovered that BRIDGES issued an autogenerated notice that Petitioner needed to return a DHS-1004. Petitioner's QMB reapplication was subsequently denied.
6. On [REDACTED], 2019 Petitioner reapplied and his QMB was opened effective November 1, 2019.
7. Unrefuted evidence is that Petitioner was always financially eligible.

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, applicable policy and procedure is found primarily in the BEM and BAM manuals.

Regarding jurisdiction, here, the undersigned Administrative Law Judge, (ALJ) only has jurisdiction to go back 90 days from the date of a hearing request. Here, Petitioner's hearing request was filed [REDACTED], 2019, allowing the undersigned to review back to QMB benefits effective July 1, 2019.

As noted, the issue is whether the Department properly closed these benefits. Here, Petitioner's worker testified that he told Petitioner at the July 26, 2019 in person meeting that his reapplication was complete, and he need not do anything further. As noted, Bridges issued an autogenerated notice requesting another document which the worker only discovered after he returned to his desk. Here, Petitioner acknowledged having received it but reasonably assumed it was not relevant having been told on the very same date that his application was complete. Good cause is shown to rule in Petitioner's favor. While the State of Michigan may choose to set up algorithms of auto generated letters without the knowledge of the worker, such is reversible error where the worker is never informed ahead of time. Here, the worker instructed Petitioner that his verifications were complete. Based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the undersigned cannot find that the

record contains credible and accurate evidence under policy to support the closure of Petitioner's QMB effective July 1, 2019. In the alternative, good cause is shown.

DECISION AND ORDER

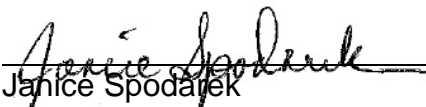
Accordingly, the Department's decision is **REVERSED**.

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:

Issue supplemental QMB benefits to Petitioner for the period from July 1, 2019 through October 31, 2019.

IT IS SO ORDERED.

JS/nr



Janice Spodarek
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

Richard Latimore
4733 Conner
Detroit, MI
48215

Wayne 57 County DHHS- via electronic
mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED] - via first class mail
[REDACTED], MI
[REDACTED]