



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: December 13, 2019  
MOAHR Docket No.: 19-011892  
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 December 12, 2019, from Lansing, Michigan. Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was represented by Daniel Davis, APS.

### **ISSUE**

Did the Department properly close Petitioner's Medical Assistance (MA) case?

### **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 applied for MA with the MDHHS.
2. On October 1, 2019, the Respondent processed Petitioner's MA budget but failed to budget Petitioner's \$ [REDACTED] income. The Respondent then opened an HMP case in error.
3. On October 9, 2019, the Respondent issued a closure notice due to excess income.
4. On October 28, 2019, Petitioner filed a hearing request.

### **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.

Department policies are found in BEM and BAM.

As a beneficiary or applicant for welfare benefits, the party alleging eligibility has the burden of proof by a preponderance of evidence. Here, that burden falls on Petitioner. However, in beneficiary administrative hearings, the Department has the burden of going forward.

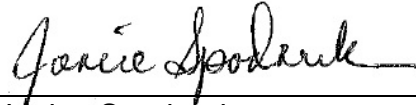
In this case, unrefuted evidence of record is that Petitioner's yearly income is \$ [REDACTED]. HMP cap for an individual between the ages of 19-64 is \$16,611.70. As such, Petitioner is not eligible for the HMP program. The opening by the Department was in error and as such, the Department was required upon discovery to close the case. The Department assessed all other MA categories and found that Petitioner was not eligible for any other MA categories.

Petitioner failed to meet her burden to show that the Department's actions were not supported by the evidence.

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 case.

**DECISION AND ORDER**

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



JS/ml

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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**

Cindy Tomczak  
401 Eighth Street  
P.O. Box 1407  
Benton Harbor, MI 49023

Berrien County DHHS – Via Electronic  
Mail

BSC3 – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]