



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: February 5, 2020  
MOAHR Docket No.: 19-013274  
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 January 29, 2020 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by April Nemec, Hearings Facilitator. During the hearing, a 23-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-23.

### **ISSUE**

Did the Department properly close Petitioner's Medicaid (MA) benefits case, effective November 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 was an ongoing recipient of MA benefits from the Department.
2. On September 9, 2019, Petitioner submitted to the Department a document to renew her MA benefits. Exhibit A, pp. 7-9.
3. On October 10, 2019, the Department issued to Petitioner a Verification Checklist requesting information regarding relevant eligibility-related factors. Notably, the document requested verification of Petitioner's checking account and savings account. The verifications were due back by October 21, 2019. Exhibit A, pp. 10-11.

4. On October 10, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her MA benefits case would be closing, effective November 1, 2019, as a result of Petitioner's alleged failure to provide the requested verifications. Notably, the denial for failing to provide verifications was issued the very same day that the verifications were requested. Exhibit A, pp. 12-13.
5. On December 5, 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 objects to the Department's closure of her MA benefits case, effective November 1, 2019. The Department closed Petitioner's MA case as a result of its determination that Petitioner failed to respond to an October 10, 2019 Verification Checklist seeking verifications related to Petitioner's assets. Notably, the Health Care Coverage Determination Notice was issued the very same day as the Verification Checklist.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a change affecting eligibility or benefit level or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (April 2017), p. 1. Verifications are considered timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative case action when either (1) the client indicates a refusal to provide the verification or (2) the time period has elapsed and the client has not made a reasonable effort to provide the verification. BAM 130, p. 7.

As is clear in the policy cited above, the Department may only take negative action if the client indicates a refusal to provide the requested verification or if the time period for

providing the verifications has elapsed and the client had yet to make a reasonable effort to provide the verifications. In this case, neither condition was present. In fact, the Department did not even give Petitioner a single day to provide the requested documents before taking negative action. The due date on the October 10, 2019 Verification Checklist was October 21, 2019. Rather than giving Petitioner until that date to provide the documentation, the Department issued the negative action on October 10, 2019. Thus, negative action was taken on October 10, 2019 for failing to respond to an October 10, 2019 request for information. That is not how the verification process works. Ms. [REDACTED] acknowledged that fact during the hearing.

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

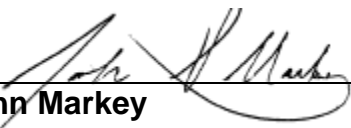
### **DECISION AND ORDER**

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;
2. Provide such MA benefits unless and until the Department properly provides timely notice of a negative action;
3. Redetermine Petitioner's eligibility for ongoing MA benefits;
4. If Petitioner is eligible for additional benefits, ensure that a prompt supplement is issued; and
5. 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

