



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: March 3, 2020  
MOAHR Docket No.: 20-000362  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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 February 24, 2020, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Sam Morgan, Eligibility Specialist, and Terita Rivers-Jones, Family Independence Manager.

**ISSUE**

Did the Department properly close Petitioner's Medicaid (MA) case effective January 1, 2020?

**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 Supplemental Security Income (SSI) benefits from the Social Security Administration (SSA).
2. As an SSI recipient, Petitioner received MA benefits from the Department under the MA-SSI program.
3. Effective November 1, 2019, the Social Security Administration closed Petitioner's SSI case and awarded her social security Retirement, Survivors and Disability Insurance (RSDI) benefits.
4. On December 13, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that her MA case was closing effective January

1, 2020 because she was not under 21, pregnant, the caretaker of a minor child, over 65 (aged), blind or disabled (Exhibit A, pp. 5-7).

5. On [REDACTED], 2020, the Department received Petitioner's request for hearing disputing the closure of her MA case (Exhibit A, p. 3).

### **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.

After SSA stopped making SSI payments to Petitioner as of November 1, 2019, the Department closed Petitioner's MA case effective January 1, 2020, and Petitioner requested a hearing disputing the Department's closure of her MA case.

Petitioner was receiving MA as an SSI recipient. In order to be eligible for MA for SSI recipients, the Department must verify current receipt of SSI and/or state supplement and most recent entitlement due through a current award letter from SSA (showing SSI eligibility for the current and ongoing month), information on the DHS-3471, DHS/SSA Referral, or contact with SSA. BEM 150 (April 2017), p. 4. In this case, the Department established that Petitioner's SSI eligibility had ended (Exhibit A, p. 8) and Petitioner acknowledged that she had stopped receiving SSI. Therefore, Petitioner was no longer eligible for the MA program for SSI recipients.

Department policy provides that when SSI benefits stop, the Department must evaluate the reason based on SSA's negative action code, then either close the MA-SSI case if SSI stopped for a reason that prevents continued MA eligibility (such as death or lack of Michigan residency) or transfer the client's MA case to SSI Termination (SSIT) type of assistance until a redetermination is completed to allow for an ex parte review of the client's eligibility for other MA categories. BEM 150, p. 6; BAM 220 (January 2019), p. 18.

During the ex parte review, the Department must consider the client's eligibility for coverage under all MA categories. BEM 150, p. 7. The Department must send the client and any authorized representative a redetermination packet that includes the DCH-

1426, Application for Health Coverage & Help Paying Cost, and the word version of the DHS-3503 Verification Checklist, marked with all verifications required for MA. BEM 150, p. 7. When the ex parte review shows that a recipient has eligibility for MA under another category, the Department must change the coverage. BAM 220, p. 18. If the ex parte review reveals the recipient has already been determined disabled for purposes of qualifying for a disability-based MA eligibility category by the SSA or the Department and the determination is still valid, the Department must continue the recipient's MA eligibility under the disability-based MA category for which the recipient is otherwise eligible. BAM 220, pp. 18-19. If the client fails to provide requested verification or if a review of the information provided establishes that the recipient is not eligible under any MA category, the Department must send timely notice of MA case closure. BAM 220, p. 19. If SSI eligibility based on disability is terminated due to financial factors, the Department must continue medical eligibility for MA, though the client must meet all financial and other nonfinancial factors for SSI-related MA categories, the categories for disabled individuals. BEM 260 (July 2015), p. 1; BEM 105 (April 2017), p. 5; BAM 815 (April 2018), p. 3. In such case, a medical review is scheduled 12 months from the date of SSI termination. BAM 815, p. 3; BEM 260, p. 1.

At the hearing, the Department contended that it was unable to conduct an ex parte review of Petitioner's MA eligibility before terminating her MA coverage, a position contrary to the Department's policy above. There was no evidence presented that the Department sent Petitioner an application or verification checklist prior to her case closure. Although the Department testified that at the time Petitioner submitted a hearing request, it sent Petitioner an MA application, there was no evidence that the Department reinstated Petitioner's MA case or that it sent Petitioner a VCL identifying the information it needed with the application. Under BEM 150, p. 6, an ex parte review requires that the client's MA coverage continue under SSIT type of assistance until a redetermination is completed and, under BAM 220, p. 18, the client's MA case cannot close due to failure to verify until timely notice is provided. Further, because Petitioner stopped receiving SSI because she became eligible for RSDI, it appears that the only reason for the closure of Petitioner's SSI-MA case was due to financial factors, another basis for the Department to continue to provide Petitioner with MA coverage. Therefore, the Department failed to remedy the erroneous closure of Petitioner's MA case.

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 case effective January 1, 2020.

### **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 case effective January 1, 2020;
2. Conduct an ex parte review of Petitioner's ongoing MA eligibility, taking into consideration whether termination of Petitioner's SSI was due to financial factors only;
3. Provide Petitioner with any MA coverage she is eligible to receive from January 1, 2020 ongoing; and
4. Notify Petitioner in writing of its decision.

ACE/tlf



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**Alice C. Elkin**  
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-Wayne-76-Hearings  
BSC4 Hearing Decisions  
EQAD  
D. Smith  
MOAHR

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

[REDACTED]  
[REDACTED]  
[REDACTED]