



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: March 12, 2020  
MOAHR Docket No.: 20-000654  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

### **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 March 4, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Veronica Mosby, specialist, and Gloria Thompson, manager.

### **ISSUE**

The issue is whether MDHHS properly processed Petitioner's reported decrease in income concerning Medicaid.

### **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 Medicaid benefits.<sup>1</sup> Exhibit A, pp. 15-21.
2. On October 24, 2019, MDHHS mailed Petitioner a Verification Checklist requesting proof of Petitioner's last 30 days of income. Exhibit A, pp. 6-7.
3. On October 24, 2019, MDHHS determined that Petitioner was eligible for emergency-services-only Medicaid in November 2019. MDHHS also determined

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<sup>1</sup> Petitioner electronically submitted her application to MDHHS on [REDACTED], 2019. Petitioner's application was sent after MDHHS' business hours. MDHHS registered the application for its next day of business, which was [REDACTED] 2019.

that Petitioner was eligible for Medicaid in December subject to a \$3,188 monthly deductible. Exhibit A, pp. 8-12.

4. On December 15, 2019, and various later dates in December 2019 and January 2020, Petitioner reported to MDHHS a reduction in income.
5. On January 14, 2020, Petitioner requested a hearing to dispute MDHHS not processing her reported change in income. Exhibit A, pp. 3-4.
6. As of January 14, 2020, MDHHS had not requested verification of Petitioner's reported change in income.

### **CONCLUSIONS OF LAW**

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing concerning Medicaid benefits. Petitioner framed the issue as MDHHS failing to process a reported change in income.

For MA, MDHHS is to act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change. BAM 220 (April 2019) p. 7. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. *Id.*

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (April 2017) p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. *Id.* MDHHS is to tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3. MDHHS is to use a VCL to request verification. *Id.*

Petitioner testified that she called her MDHHS specialist many times in December 2019 and left multiple messages reporting that her family's income was reduced. Petitioner's expectation at the time was that she be informed of how to proceed so that her Medicaid eligibility would reflect the reduced income. Petitioner further testified that MDHHS repeatedly failed to return her calls. MDHHS presented no evidence to rebut Petitioner's testimony.

Petitioner could not specifically remember what dates that she called MDHHS. Her testimony implied that her reporting occurred in the middle of December 2019. Given the evidence, Petitioner's date of reporting a reduction in income is found to be 12/15/19.

MDHHS's Hearing Summary seemed to contend that MDHHS satisfied its responsibilities by mailing Petitioner a VCL on October 24, 2019. Exhibit A, pp. 1-2. Mailing a VCL to a client several weeks before a reported change does not satisfy MDHHS' burden to act on a change. Perhaps MDHHS' expectation was that Petitioner simply submit updated income documentation to MDHHS. MDHHS should be aware that its policy allows clients to report changes verbally. Its policy also requires specialists to act on a change by sending clients a VCL if verification needed; if verification is not needed, MDHHS is to process the change. MDHHS did not present evidence that a VCL was sent to Petitioner or that her reported change was processed without a VCL.

Given the evidence, MDHHS failed to act on Petitioner's reported change in income within 15 days. Petitioner's remedy is for MDHHS to begin processing her change.

It should be noted that MDHHS may also have improperly determined Petitioner's Medicaid eligibility for November 2019. A Health Care Coverage Determination Notice October 24, 2019, stated that Petitioner was eligible for Medicaid restricted to emergency services only (ESO) in November 2019. ESO-Medicaid is appropriate for non-citizens and otherwise ineligible immigrants. Petitioner credibly testified that she was a naturalized citizen. Thus, the issuance of ESO-Medicaid appears to be wrong. Petitioner did not request a hearing over this specific issue; thus, there is no jurisdiction to issue an administrative remedy. However, MDHHS should be aware of its possible error when processing Petitioner's Medicaid so that her future eligibility is not adversely affected.


### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to process Petitioner's reported decrease in income dated December 15, 2019. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Process Petitioner's reported decrease in income dated December 15, 2019, in compliance with policy; and
- (2) Issue a supplement for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/cg

  
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**Christian Gardocki**  
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-17-Hearings  
D. Smith  
EQAD  
BSC4- Hearing Decisions  
MOAHR

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

