



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: July 30, 2020  
MOAHR Docket No.: 20-003925  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

**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 July 22, 2020, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Mark Boyd, Family Independence Manager.

**ISSUE**

Did the Department properly deny Petitioner's application for Medical Assistance (MA) benefits?

**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 or around ██████████, 2020, Petitioner submitted an application for MA benefits.
2. On March 31, 2020, the Department sent Petitioner a Health Care Coverage Supplemental Questionnaire (Questionnaire) which she was instructed to complete and return to the Department by April 13, 2020. (Exhibit A, pp.8-10)
3. On April 20, 2020, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) informing her that she was ineligible for MA benefits for the period of March 1, 2020, ongoing, on the basis that she failed to timely return the supplemental questionnaire mailed to her. The Notice further indicates that Petitioner's annual income was determined to be ██████████. (Exhibit A, pp.5-7)

4. On May 5, 2020, Petitioner requested a hearing disputing the Department's actions. (Exhibit A, pp. 3-4)

### **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.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, which provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 105 (January 2020), p. 1; BEM 137 (January 2020), p. 1.

Based on the evidence presented at the hearing, Petitioner, who has not been determined disabled, is under age [REDACTED] and has no minor children, would potentially be eligible for MA benefits only under the HMP, which is a Modified Adjusted Gross Income (MAGI)-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1-4.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p.1. To request verification of information, the Department will inform the client of what verification is required, how to obtain it, and the due date. BAM 130, p. 3. With respect to MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. BAM 130, pp.7-8. Verifications are considered to be timely if received by the date they are due. BAM 130, p.7-8. The Department will send a negative action notice when the client

indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8.

The DHS-1004, Health Care Coverage Supplemental Questionnaire, is used to gather additional information when the applicant indicates a disability on the DCH-1426 (MA application). BEM 105 (April 2017), p. 3.

In the present case, the Department testified that because Petitioner failed to return the completed Questionnaire by the April 13, 2020 due date identified on the form, the Department issued the April 20, 2020 Health Care Coverage Determination Notice, denying Petitioner's [REDACTED] 2020 MA application.

At the hearing, the Department testified that Petitioner did not indicate that she was disabled on her MA application. There was no evidence that Petitioner alleged a disability on any other documents provided to the Department, as she reported that she was self-employed on her application. The Department asserted that the Questionnaire was automatically generated and issued to Petitioner because she reported earnings on the application that needed to be verified. However, the evidence established that the Department was not required to send Petitioner the Questionnaire for completion, as her eligibility for SSI-related MA based on a disability was not being determined and she did not indicate a disability on the application. BEM 105, p. 3. Therefore, if verification of Petitioner's earnings was needed in order to process the application, the Department would have been required to send Petitioner a VCL in accordance with the policy identified above. The Department's denial of Petitioner's MA application based on a failure to return the Questionnaire which was not required for application processing is thus, improper, and not in accordance with Department policy.

Petitioner raised concerns at the hearing regarding the total annual income identified by the Department on the April 20, 2020 Notice. Petitioner testified that at the time she completed the MA Application, she provided an estimate of what her self-employment annual earnings might be for the 2020 year. However, due to the COVID 19 situation, she has been unable to work and is receiving unemployment compensation and pandemic unemployment assistance (PUA). Because Petitioner's [REDACTED] 2020 application was not denied based on excess income, this issue will not be addressed. However, Petitioner and the Department are directed to review Economic Stability Administration (ESA) Memorandum 2020-24: COVID-19 CARES Act Unemployment Insurance Payments, which provides that while state unemployment compensation may be countable for MA purposes, the \$600 federal pandemic unemployment benefit is the only excluded unemployment compensation for all types of MA.

There was some evidence presented that Petitioner subsequently reapplied for MA benefits on or around [REDACTED], 2020 and the application was denied because Petitioner's income was in excess of the income limit with a Health Care Coverage Determination Notice issued on June 16, 2020. Petitioner was informed that should she dispute the denial of her [REDACTED] 2020 MA application, she was required to submit a new hearing

request, as the denial is considered a subsequent negative action occurring after the date of her May 5, 2020 hearing request that the undersigned does not have the authority to address. See BAM 600.

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 denied Petitioner's [REDACTED] 2020 MA application.


### **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. Register and reprocess Petitioner's [REDACTED] 2020 MA application to determine her eligibility for MA under all eligible categories;
2. Provide Petitioner with MA coverage under the most beneficial category from the application date, ongoing, if otherwise eligible, in accordance with Department policy;
3. Supplement Petitioner and her provider for any eligible missed MA benefits; and
4. Notify Petitioner in writing of its decision.

ZB/tm

  
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**Zainab A. Baydoun**  
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

**Petitioner**

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

cc: ME—D. Smith; EQADHShearings  
AP Specialist-Wayne County