



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: January 19, 2021  
MOAHR Docket No.: 20-007521  
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 telephone hearing was held on January 14, 2021. Petitioner appeared unrepresented. Department of Health and Human Services (Department) was represented by Dawn Elford, FIM.

Department Exhibit A.13 was admitted into the record.

### **ISSUE**

Did the Department properly process Petitioner's Medicaid (MA) application?

### **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] 2020, Petitioner applied for MA benefits for his household members including three non-citizens – himself, his spouse, and one minor child, along with his youngest child, who is a citizen.
2. At application, no one in the household was working, annual income was [REDACTED] for all members.
3. On November 9, 2020, the Department issued a Health Care Determination Notice approving emergency MA for the three non-citizens and full MA for the citizen.
4. On November 23, 2020, Petitioner appealed the Department's decision.

## **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.

Applicable policy to the facts herein is found primarily at BEM 225. That policy states that individuals who are non-citizens are eligible for emergency MA only, not full MA.

Individuals who are asserting eligibility for welfare benefits have the burden of proof by a preponderance of evidence. Here that burden falls on Petitioner.

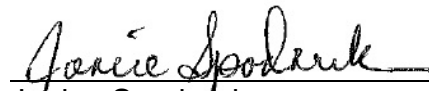
In this case, Petitioner's household members citizenship status and lack of income are undisputed. Petitioner requests full MA for the three household members who are non-citizens and who are beneficiaries of the emergency MA program. Petitioner argues for eligibility on the grounds that purportedly, he received full MA in the New York State before moving to Michigan. However, Petitioner offered no law or policy that would entitle him to any benefits in Michigan based on New York law. In addition, Petitioner cited no law or policy that would entitle him to more than emergency MA benefits in Michigan as long as he and his two other household members are non-citizens. As such, Petitioner has not met his burden of proof.

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 opened emergency MA for three household members and full MA for the youngest citizen member.

**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**

Joleen Peck  
Grand Traverse County DHHS – via  
electronic mail

BSC1 – via electronic mail

D. Smith – via electronic mail

EQAD – via electronic mail

**Petitioner**

[REDACTED] – via first class mail

[REDACTED] MI [REDACTED]