



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 21, 2021  
MOAHR Docket No.: 20-007769  
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, an administrative hearing was held on January 20, 2021. Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was represented by Susan Foreman, FIM

Department Exhibit A.13 was admitted into the record.

### **ISSUE**

Did the Department properly close Petitioner's Medicaid (MA) spend-down case?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times prior to the action at issue herein, Petitioner was an MA beneficiary.
2. During a review of Petitioner's case in October 2020, the Department determined that Petitioner had not met her spend-down in over three months.
3. On November 6, 2020, the Department issued a Health Care Determination Notice informing Petitioner that her case will close due to her not having met her spend-down in over three months.
4. On November 30, 2020 Petitioner filed a hearing request.

## **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.

Individuals asserting eligibility for welfare benefits have the burden of proof by a preponderance of evidence.

Department policy applicable to the case herein, is found primarily at BEM 545. That policy requires the department to close a MA deductible case when the beneficiary has not met its deductible within the past three months. BEM 545, page 12; 42 CFR 435.831(b)-(d); MCL 400.106, .107

In this case, unrefuted evidence of record indicates that Petitioner had not met her deduction in one of the three months prior to the October 2020 review. The Department argues that as such, the Department was required to close Petitioner's case.

Petitioner argues that the status of her MA case affects her medications under the social security program. However, Petitioner offered no law or policy that would entitle her to keep her MA deduction open under the facts here.

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 closed Petitioner's MA deductible case.

**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**

Alison Gordon  
Barry County DHHS – via electronic mail

BSC3 – via electronic mail

C. George – via electronic mail

EQAD – via electronic mail

**Petitioner**

██████████ – via first class mail

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