



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: September 27, 2021  
MOAHR Docket No.: 21-003982  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

### **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 September 23, 2021, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Ashley Evans, Assistance Payments Supervisor (AP Supervisor).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-10.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) and the Medicare Savings Program (MSP)?

### **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 receiving Healthy Michigan Plan (HMP) Medicaid (MA-HMP). (Testimony)
2. Petitioner turned [REDACTED] in [REDACTED] 2021. (Testimony)
3. Effective August 1, 2021, Petitioner received Medicare benefits. (Testimony)
4. Effective August 1, 2021, the Department changed Petitioner's Medicaid from MA-HMP to Aged or Disabled Medicaid (AD-Care MA). (Testimony)

5. On August 6, 2021, the Department issued a Health Care Determination Notice indicating Petitioner was approved for the MSP effective August 1, 2021 and ongoing but was denied for July 2021. (Exhibit A, p. 6)
6. On August 19, 2021, the Department issued a Health Care Determination Notice indicating Petitioner was denied for the MSP for July 2021. (Exhibit A, pp. 8-10)
7. On August 23, 2021, Petitioner filed a hearing request contesting the Department's determinations. (Exhibit A, pp. 4-7)

### **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.

An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220. BAM 210, January 1, 2021, p. 2.

Medicaid eligibility is determined on a calendar month basis. BEM 105 (January 1, 2021), p.2.

HMP provides health care coverage for individuals who: are 19-64 years of age; do not qualify for or are not enrolled in Medicare; (rest of list omitted by ALJ). BEM 137, June 1, 2020, p. 1.

Nonfinancial eligibility factors for AD-CARE MA include the individual being aged or disabled. BEM 163, July 1, 2017, p.1. for MA, an individual age 65 or older is considered aged. BEM 240, July 1, 2021, p. 3.

A person entitled to Medicare Part A, Hospital Insurance, may be eligible for a Medicare Savings Program described in BEM 165. The person may be eligible for just a Medicare

Savings Program or a Medicare Savings Program in addition to regular MA benefits. (BEM 105, January 1, 2021, p. 3)

In this case, the AP Supervisor acknowledged that the Health Care Coverage Determination notice did not state the correct reason for the MSP denial for the month of July 2021. (Testimony)

However, based on Petitioner's testimony, the Department's actions were correct. Petitioner stated he turned [REDACTED] in [REDACTED] 2021. Further, effective August 1, 2021, Petitioner received Medicare benefits.

Once Petitioner turned [REDACTED] and was eligible for Medicare, he was no longer eligible for MA-HMP under the above BEM 137 policy. Accordingly, pursuant to BAM 210, the Department completed ex parte review before the MA-HMP closure when there was an actual or anticipated change. The Department determined that Petitioner would be eligible for AD-Care MA when he turned 65 pursuant to the BEM 163 and 240 policies.


Additionally, Petitioner's testimony indicated he was not eligible for Medicare in the month of July 2021. Rather, Petitioner became eligible for Medicare effective [REDACTED], 2021. (Testimony) As the BEM 105 policy indicates, an individual must be entitled to Medicare Part A, Hospital Insurance, to potentially be eligible for the MSP.

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 determined Petitioner's eligibility for MA and the MSP.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

CL/ml

  
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**Colleen Lack**  
Administrative Law Judge

**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**

MDHHS-Lenawee-Hearings  
BSC4  
C. Geroge  
EQAD

**Petitioner**

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