



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: July 17, 2023  
MOAHR Docket No.: 23-002993  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **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 hearing was held on June 22, 2023 via teleconference. Petitioner appeared and represented herself. Dania Ajami appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUE**

Did MDHHS properly terminate Petitioner's Medicaid (MA) coverage?

### **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 an ongoing recipient of MA coverage.
2. On May 2, 2023, Petitioner submitted a letter to MDHHS explaining that she received \$50,244.25 from the sale of a house that she inherited (Exhibit A, p. 7). She requested that MDHHS either put her in a spenddown program or remove her from the MA program (Exhibit A, p. 7).
3. On May 3, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that her case would be closed, effective June 1, 2023, because Petitioner requested that the assistance be stopped (Exhibit A, p. 13).
4. On May 30, 2023, Petitioner filed a Request for A Hearing to dispute the closure of her MA benefits (Exhibit A, pp. 3-12).

## 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).

Medicaid (MA) 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. MDHHS administers MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2021), p. 1.

In this case, MDHHS alleged that it terminated Petitioner's MA benefits pursuant to Petitioner's request that the case be closed. Petitioner reported that she had received money from the sale of a house that she inherited and was concerned that she was no longer eligible for MA coverage due to being over the asset limit for the program.

Medicaid is comprised several sub-programs or categories. BEM 105, p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* In general, the terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.* This is because incurred medical expenses are used when determining eligibility for Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

Persons may qualify under more than one MA category. BEM 105, p. 2. Federal law gives clients the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.* MDHHS must consider all MA category options for the client's right of choice to be meaningful. *Id.*

The asset limit for MA varies depending on the MA category. For programs with an asset test, countable assets cannot exceed the applicable asset limit. BEM 400 (January 2023), p. 2. MDHHS must consider assets when determining eligibility for

Group 2 Persons Under Age 21 (G2U), Group 2 Caretaker Relative (G2C), and SSI-Related MA. *Id.* p., 1. For G2U and G2C MA, MDHHS considers cash, investments, retirement plans and trusts as assets. *Id.*, pp. 2-3. For SSI-related MA, MDHHS considers all types of assets when determining eligibility. *Id.* There is no asset-test for MAGI-related MA. *Id.* Asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. *Id.*, p. 7. If an ongoing MA recipient or active deductible client has excess assets, MDHHS must initiate closure of the MA case. *Id.* However, MDHHS is required to delete the pending negative action if it is verified that the excess assets were disposed of. *Id.* Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. *Id.*

A review of Petitioner's May 2, 2023 letter to MDHHS reveals that Petitioner reported that she received \$50,244.25 from the sale of a property that she inherited (Exhibit A, p. 7). Petitioner stated, "either put me in a spend down program or remove me from the Medicaid Program" (Exhibit A, p. 7). Petitioner made the request because she was concerned that she was no longer eligible for MA due to the receipt of the funds from the sale of the property. However, rather than a request for case closure, the letter is more appropriately classified as a change report and a request to assess Petitioner's MA eligibility in light of the change in circumstances.

Accordingly, MDHHS should have processed the reported change in circumstances and determined whether Petitioner was eligible for any MA category instead of closing her case. No evidence was presented that MDHHS considered all MA options that Petitioner may have been eligible for before initiating the closure, contrary Department policy. If Petitioner was only eligible for MA categories with an asset test and she was over the asset limit, then MDHHS is required to initiate closure. BEM 400, p. 7. However, if MDHHS receives information that the excess assets were disposed of, it is required to delete the pending case closure. *Id.* MDHHS policy provides that spending down assets by paying for medical expense, living costs and other debts are ways to dispose of excess assets without being penalized for divestment. *Id.*

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 MDHHS did not act in accordance with Department policy when it terminated Petitioner's MA coverage.

### **DECISION AND ORDER**

Accordingly, MDHHS's decision is **REVERSED**.

MDHHS 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. Reinstate Petitioner's MA case, effective June 1, 2023 ongoing;

2. Redetermine Petitioner's eligibility for MA from June 1, 2023 ongoing, requesting additional verification regarding assets and other eligibility factors, if necessary;
3. Provide MA coverage for each month that Petitioner is eligible, from June 1, 2023 ongoing; and
4. Notify Petitioner of its decision in writing.



LJ/tm

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**Linda Jordan**  
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

**Via-Electronic Mail :**

**DHHS**  
Caryn Jackson  
Wayne-Hamtramck-DHHS  
12140 Joseph Campau  
Hamtramck, MI 48212  
**MDHHS-Wayne-55-  
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**Interested Parties**

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**Via-First Class Mail :**

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