



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
ACTING DIRECTOR

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Date Mailed: September 22, 2023  
MOAHR Docket No.: 23-004928  
Agency No.: ██████████  
Petitioner: ██████████

**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 September 14, 2023 via teleconference. Petitioner appeared and represented herself. Lianne Scupholm, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUES**

1. Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA) and the Medicare Savings Program (MSP)?
2. Did MDHHS properly terminate Petitioner's Food Assistance Program (FAP) 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. Petitioner was an ongoing recipient of MA, MSP and FAP benefits.
2. On July 5, 2023, Petitioner submitted a Redetermination for MA, MSP and FAP (Exhibit A, pp. 6-12).
3. On July 8, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting that she verify her employment income information and provide a bank statement

(Exhibit A, pp. 13-14). The requested proofs were due by July 18, 2023 (Exhibit A, p. 13).

4. On July 8, 2023, MDHHS sent Petitioner an Employment Verification Form, which instructed her to give the form to [REDACTED] (Employer) to complete and return it to MDHHS by July 18, 2023 (Exhibit A, p. 16).
5. On July 20, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that Petitioner was approved for Plan First limited MA coverage, effective August 1, 2023 ongoing (Exhibit A, p. 19). The notice also indicated that Petitioner was not eligible for MSP, effective August 1, 2023 ongoing, for failure to return requested verifications regarding earned income (Exhibit A, p. 20).
6. On July 20, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP case would be closed, effective August 1, 2023 ongoing, for failure to verify requested information regarding her employment (Exhibit A, pp. 24-25).
7. On August 10, 2023, Petitioner requested a hearing to dispute the termination of her MA and MSP coverage and FAP benefits (Exhibit A, pp. 3-5).

### **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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Medicaid (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. MDHHS administers the MA program 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.

Medicare is a federal program administered by the Social Security Administration (SSA). BAM 810 (January 2020), p. 1. MSP is a state program administered by MDHHS in which the state pays an eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (October 2022), pp 1-2; BAM 810, p. 1. All eligibility factors for the program must be met in the calendar month being tested. BEM 165, p. 2. There are

three MSP categories: (1) QMB (Qualified Medicare Beneficiary), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2. Clients must be entitled to Medicare Part A to be eligible for the program. BEM 165, pp. 5-6.

In this case, MDHHS terminated Petitioner's FAP and MSP benefits and determined that Petitioner was eligible for Plan First limited MA coverage only. MDHHS alleged that Petitioner failed to return the requested information regarding her employment at Employer. MDHHS alleged in the Hearing Packet that it denied Petitioner for MA, however, the Health Care Determination Notice indicates that Petitioner was approved for MA, but only for a limited coverage category (Exhibit A, p. 19).

MDHHS must obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2023), p. 1. To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. MDHHS is required to use a VCL to request verification from clients. *Id.* If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, MDHHS must offer to assist the individual in the gathering of such information. *Id.*, p. 1. The client must obtain the requested verification, but the local office must assist the client if they need and request help. *Id.*, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. *Id.* If no evidence is available, MDHHS must use its best judgement. *Id.*

MDHHS allows the client ten calendar days to provide the requested verification. *Id.*, p. 7. Verifications are considered timely if received by the date that they are due. *Id.* MDHHS sends a negative action notice when the client indicates a refusal to provide the requested verification or the time period given on the VCL has lapsed and the client has not made a reasonable effort to provide it. *Id.* For FAP, if the client contacts MDHHS prior to the due date requesting an extension or assistance in obtaining verifications, MDHHS is required to assist the client but may not grant an extension. *Id.* If the client returns the requested verifications, eligibility will be determined based on the compliance date, following subsequent processing rules. *Id.* Before determining program eligibility, MDHHS must give the client a reasonable opportunity to resolve any discrepancy between the client's statement and another source. *Id.*, p. 9.

Here, Petitioner testified that she attempted to comply with MDHHS' requests for information; however, Employer refused to provide the information because her manager stated that MDHHS should have access to the information from the Work Number Report. Petitioner further testified that she contacted MDHHS stating that the Employer was refusing to provide her with the information and that she was having difficulty delivering copies of her paystubs to MDHHS. Petitioner credibly testified that

she contacted MDHHS for assistance and that she brought copies of her paystubs to MDHHS.

When a client contacts MDHHS for assistance obtaining verifications, MDHHS is required to assist the client. MDHHS failed to present sufficient evidence to show that it properly assisted Petitioner when she indicated that she was having difficulty obtaining the information. If a client is unable to obtain the information, MDHHS must attempt to obtain the information, and if it is unable to do so, it must use the best available information. It is unclear from the record whether MDHHS attempted to verify the information in another manner after Petitioner indicated that she was unable to obtain it.

Regarding MA coverage, MDHHS approved Petitioner for Plan First, a limited MA coverage category, and terminated her MSP benefits. The termination of the MSP benefits was improper because as stated above, MDHHS failed to show that it properly assisted Petitioner in obtaining the requested verifications.

MA includes several sub-programs or categories. BEM 105 (January 2021) p. 1. MA is available to (i) individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) 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, p. 1; BEM 137 (October 2016), p. 1. Persons may qualify under more than one MA category. *Id.*, 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 did not present sufficient evidence to show that Petitioner was ineligible for certain MA categories based on income or other eligibility factors. Therefore, it failed to establish that it properly considered Petitioner for all MA categories and did not demonstrate that it acted in accordance with relevant laws and policies when it approved Petitioner for a limited coverage MA category.

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 FAP and MSP categories and determined that Petitioner was eligible for a limited coverage MA category.

### **DECISION AND ORDER**

Accordingly, MDHHS' decisions are **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. Redetermine Petitioner's eligibility for MA and MSP coverage, effective August 1, 2023 ongoing, requesting additional verification from Petitioner if necessary and providing Petitioner with the appropriate assistance;
2. If eligible, provide Petitioner with MA and MSP coverage from the date of eligibility ongoing;
3. Reinstate Petitioner's FAP benefits and redetermine Petitioner's eligibility for FAP benefits, effective August 1, 2023, ongoing;
4. Issue supplemental payments to Petitioner for any FAP benefits that she was entitled to receive but did not from August 1, 2023 ongoing; and
5. Notify Petitioner of its decisions in writing.



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**Linda Jordan**  
Administrative Law Judge

LJ/tm

**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.

