



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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██████████, MI ██████████

Date Mailed: December 27, 2023  
MOAHR Docket No.: 23-006081  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **HEARING DECISION**

Following Petitioner's Request for 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 November 27, 2023, via teleconference. Attorney, Winston Adkins, appeared on behalf of Petitioner. ██████████, Petitioner's mother and legal guardian, appeared as a witness for Petitioner. A representative from the Michigan Department of Health and Human Services (MDHS or Department) did not appear and the hearing was held in MDHHS' absence. At the hearing, the Hearing Packet prepared by MDHHS was offered into evidence by Petitioner and admitted as Petitioner's Exhibit 1.

### **ISSUE**

Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA) and Medicare Savings Program (MSP) 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 receiving Supplemental Security Income (SSI)-related MA based on her receipt of SSI benefits (Exhibit 1, p. 1).
2. Beginning July 2020, Petitioner's SSI benefits ended (Exhibit 1, pp. 6, 19). Petitioner began receiving Retirement, Survivors, and Disability Insurance (RSDI) benefits. As of December 2022, Petitioner was receiving \$██████████ per month in RSDI payments (Exhibit 1, p. 24). The Social Security Administration (SSA) deducted \$124.90 per month for medical insurance premiums (Exhibit 1, p. 24).

3. On July 10, 2023, MDHHS sent Petitioner a notice indicating that she was receiving SSI-Terminated MA Coverage because it received information from the SSA that her SSI benefits ended (Exhibit 1, p. 49). The notice informed her that if her SSI benefits were terminated, MDHHS was required to close her SSI-related MA coverage and determine ongoing MA eligibility in another category (Exhibit 1, p. 49). The notice advised her to submit forms to MDHHS by August 10, 2023, including the Application for Health Coverage & Help Paying Costs (DHC-1426), in order to determine ongoing eligibility for MA (Exhibit 1, p. 49). The notice was printed in Spanish (Exhibit 1, p. 49).
4. On [REDACTED], 2023, Petitioner submitted the Application for Health Coverage & Help Paying Costs (DHC-1426) to MDHHS (Exhibit 1, pp. 30-48).
5. On July 28, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that Petitioner was not eligible for MA coverage, effective July 1, 2023 ongoing (Exhibit 1, p. 21).
6. On August 28, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that Petitioner was eligible for Plan First, a limited MA coverage category, and MA with \$1,233.00 monthly deductible, effective October 1, 2023 ongoing (Exhibit 1, p. 27).
7. On August 28, 2023, MDHHS sent Petitioner a notice printed in Spanish (Exhibit 1, p. 56). This notice indicated that Petitioner was not eligible for MA or MSP coverage, effective October 1, 2023 ongoing (Exhibit 1, p. 56).
8. On September 12, 2023, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that she was eligible for full coverage MA, effective October 1, 2023 ongoing (Exhibit 1, p. 60). MDHHS approved Petitioner for Disabled Adult Child (DAC) MA, beginning October 1, 2023 (Exhibit 1, p. 1)

### **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 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.

The Medicare Savings Program (MSP) is a state program administered by MDHHS in which the state pays an eligible client's Medicare premiums, coinsurances, and deductibles, with coverage depending on the MSP category that the client is income-

eligible for. BEM 165 (October 2022), pp 1-2; BAM 810 (January 2020), 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.

Supplemental Security Income (SSI) is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. BEM 150 (July 2021), p. 1. The Social Security Administration (SSA) determines SSI eligibility. *Id.* Individuals who are SSI recipients are automatically eligible for MA if they are a Michigan resident and if they cooperate with third-party resource liability requirements. *Id.* MDHHS administers MA for SSI recipients including a continued MA eligibility determination when SSI benefits end. *Id.* When SSI benefits stop, MDHHS is required to evaluate the reason for the termination based on SSA's negative action code. *Id.*, p. 6. If the SSI benefits are stopped due to a reason that prevents MA eligibility (for example, death or a move out of state), MDHHS is required to close the SSI-related MA coverage. *Id.* If SSI benefits are closed for any other reason, MDHHS transfers the case to MA-Terminated SSI MA and sets a redetermination date for the second month after the transfer to allow for an ex parte review. *Id.* A redetermination/ex parte review is required before initiating a MA closure when there is an actual or anticipated change. *Id.* This include a consideration eligibility under all MA categories. *Id.*

When a case is transferred to MA Terminated SSI Medicaid, the specialist should mail a redetermination/ex parte packet to the client and authorized representative. BEM 150, p. 6. The redetermination/ex parte packet should include the DCH-1426, Application for Health Coverage & Help Paying Cost, and the DHS-3503, Verification Checklist. *Id.* MDHHS must complete the redetermination/ex parte review during the second month of the MA-Terminated SSI Medicaid. *Id.*, p. 7. A determination of eligibility for another MA program or total ineligibility for any program must be completed before MA-Terminated SSI Medicaid can close. *Id.* If continued MA eligibility does not exist, MDHHS follows the standard negative action procedures in the second month of MA-Terminated SSI Medicaid.

Disabled Adult Children (DAC) MA is an SSI-related MA category for individuals who are receiving DAC Retirement, Survivors, Disability Insurance (RSDI) benefits under Section 202(d) of the Social Security Act if the individual (i) is age 18 or older; (ii) received SSI; (iii) ceased to be eligible for SSI on or after July 1, 1987, because they became entitled to DAC RSDI benefits under Section 202(d) of the Social Security Act or an increase in such RSDI benefits; (iv) is currently receiving DAC RSDI benefits under Section 202(d) of the Act; and (v) would be eligible for SSI without such RSDI benefits. BEM 158 (October 2014), p. 1.

In this case, Petitioner requested a hearing to dispute MDHHS' determinations regarding her MA and MSP coverage. The Request for Hearing also prayed for the undersigned Administrative Law Judge (ALJ) to address Petitioner's eligibility for Medicare. It was explained at the hearing that the undersigned ALJ has authority over MA and MSP, but not Medicare, and that if there was an issue with Petitioner's Medicare coverage, it would have

to be pursued with the SSA. MDHHS did not appear at the hearing. Therefore, this decision is based solely on Petitioner's testimony and the Hearing Packet prepared by MDHHS, which was admitted as Petitioner's Exhibit 1 during the hearing.

MDHHS terminated Petitioner's SSI-related MA coverage because it received information that her SSI benefits ended. Although Petitioner's SSI benefits ended in July 2020, MDHHS presumably did not act on Petitioner's case until July 2023 because of the COVID-19 Public Health Emergency. COVID-19 policies prevented MDHHS from terminating MA coverage unless the beneficiary requested closure, died or moved out of state. Economic Stability Administration (ESA) Memo 2020-12 (March 2020), p. 1.

Based on the documentation presented at the hearing, MDHHS sent Petitioner a notice that it received information from SSA that she was no longer receiving SSI benefits, and therefore, no longer eligible for MA coverage based on the receipt of SSI. The notice included instructions for determining continued eligibility for MA, including the submission of DCH-1426, Application for Health Coverage & Help Paying Cost. These actions were taken in accordance with Department policies relating to transferring a case to MA Terminated SSI MA after the termination of SSI benefits. See *generally*, BEM 150. It is unclear whether MDHHS sent Petitioner a VCL to Petitioner or if it lacked the information necessary to determine Petitioner's continued MA eligibility.

On July 20, 2023, Petitioner submitted the DCH-1426 to MDHHS and MDHHS processed Petitioner's eligibility for MA. After transferring the case to MA Terminated SSI Medicaid, MDHHS is required to evaluate the beneficiary's eligibility for all MA categories. BEM 160, p. 7. Initially, MDHHS sent Petitioner several notices with seemingly conflicting information regarding Petitioner's eligibility for continued MA coverage. It is undisputed that Petitioner is disabled, that she was receiving SSI, that the SSI benefits were terminated and that she is now receiving RSDI. MDHHS eventually approved Petitioner for DAC MA, effective October 1, 2023 ongoing. Although MDHHS did not appear at the hearing to explain the notices, a review of MDHHS' Hearing Summary provides some insight. The Hearing Summary states that Petitioner's SSI-related MA coverage ended September 30, 2023 in Case No. 101645200 and that MA DAC coverage started October 1, 2023 in Case No. 135784571 (Exhibit 1, p. 1). Although the negative actions sent by MDHHS created confusion, it appears from the Hearing Summary that there was no gap in Petitioner's full-coverage MA. MDHHS transferred Petitioner's coverage to MA Terminated SSI Medicaid and her coverage based on receiving SSI benefits ended September 30, 2023, in Case No. 101645200. MDHHS approved Petitioner for DAC MA and opened a new case (Case No. 135784571) for coverage beginning October 1, 2023 ongoing. Thus, MDHHS properly terminated Petitioner's MA coverage based on the receipt of SSI and approved her for MA coverage in the DAC MA category.

It is unclear from the record why MDHHS determined that Petitioner was ineligible for MSP benefits. Petitioner was receiving RSDI and paying a health care deductible for Medicare Part B. MDHHS did not appear at the hearing to explain its actions or to shed light on whether Petitioner was eventually approved for MSP coverage in addition to DAC MA benefits. No budgets for MSP coverage were introduced at the hearing. Without this basic

information, it is not possible to conclude that MDHHS followed policy when it denied Petitioner's MSP coverage.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's eligibility for MSP benefits.

### **DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED** with respect to Petitioner's MSP coverage and **AFFIRMED** with respect to Petitioner's MA coverage.

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 MSP coverage, effective July 1, 2023 ongoing;
2. If eligible, provide Petitioner with MSP coverage, from July 1, 2023 ongoing; and
3. Notify Petitioner of its decision(s) 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.

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**  
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**Interested Parties**  
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**Via-First Class Mail :**

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