



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: November 14, 2023  
MOAHR Docket No.: 23-006588  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 November 9, 2023, via conference line. Petitioner was present with his Authorized Hearing Representative, ██████████. The Department of Health and Human Services (Department) was represented by Tom Jones, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly close Petitioner's Medicare Savings Program (MSP) benefit 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. Petitioner was an ongoing MSP benefit recipient.
2. On July 13, 2023, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's assets (Exhibit A, pp. 9-10).
3. On August 8, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his MSP benefit case was closing effective July 1, 2023, for his failure to submit the requested verifications and excess income (Exhibit A, pp. 21-23).

4. On September 20, 2023, Petitioner submitted a request for hearing disputing the Department's actions.

### **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.

In this case, the Department sent Petitioner notice that his MSP benefit case was closing as a result of his failure to submit the requested verifications and for excess income. However, at the hearing, the Department testified that Petitioner did not have excess income and his case was closed for the verification issue. On July 13, 2023, the Department sent Petitioner a VCL requesting verification of Petitioner's checking and savings accounts. Proofs were due by July 24, 2023.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For MA/MSP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department testified that Petitioner did not submit the requested proofs by the due date. As a result, Petitioner's MSP benefit case was closed. At the hearing, Petitioner's AHR conceded that she received the VCL. Petitioner's AHR testified that she received the VCL on July 23, 2023, and was unable to timely provide the verifications. Petitioner's AHR stated that she contacted the Department and spoke with personnel other than Petitioner's worker, who were unfamiliar with Petitioner's case. Petitioner's

AHR testified that she attempted to contact Petitioner's worker to request an extension but was unable to speak with Petitioner's worker.

Petitioner's AHR's testimony that she attempted to obtain an extension was credible. Per policy, Petitioner is allowed extensions of the VCL due date up to two times. Therefore, the Department did not act in accordance with policy when it closed Petitioner's MSP benefit case.

### **DECISION AND ORDER**


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 did not act in accordance with Department policy when it closed Petitioner's MSP benefit case.

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

THE DEPARTMENT 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 MSP benefit eligibility as of July 1, 2023;
2. If Petitioner is eligible for MSP benefits, issue supplements in accordance with Department policy; and
3. Notify Petitioner of its decision in writing.

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**Ellen McLemore**  
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**  
Linda Gooden  
Oakland County Southfield District III  
25620 W. 8 Mile Rd  
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**Interested Parties**  
M. Schaefer  
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**Via-First Class Mail :**

**Petitioner**  
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