



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
ACTING DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: February 9, 2024  
MOAHR Docket No.: 23-008282  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned administrative law judge (ALJ) 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 via telephone conference line on February 1, 2024. Petitioner appeared and was represented. [REDACTED] [REDACTED] Petitioner's son, testified on behalf of Petitioner and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Tameka Brassell, specialist. Alsyn Crawford, ALJ with the Michigan Office of Administrative Hearings and Rules, observed the hearing.

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) eligibility.

### **FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On September 6, 2023, Petitioner timely submitted to MDHHS redetermination documents for continuing MA benefits.
2. On October 23, 2023, MDHHS mailed Petitioner a Verification Checklist (VCL) specifically requesting Petitioner's 2022 tax documents to verify income; the due date was November 2, 2023.

3. On October 26, 2023, Petitioner returned to MDHHS a Form 1040 for 2022 taxes.
4. On November 14, 2023, MDHHS terminated Petitioner's MA eligibility beginning December 2023 due to an alleged failure by Petitioner to verify income.
5. On November 20, 2023, Petitioner submitted to MDHHS 21 pages of 2022 tax documents which seemingly included all documents filed with the Internal Revenue Service.
6. On November 20, 2023, Petitioner requested a hearing to dispute the termination of MA benefits.
7. As of February 1, 2023, MDHHS had not processed Petitioner's MA eligibility beginning December 2023.

### **CONCLUSIONS OF LAW**

The 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 policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of MA benefits. Exhibit A, p. 3. A Health Coverage Determination Notice dated November 14, 2023, stated that MDHHS terminated Petitioner's MA eligibility beginning December 2023 due to Petitioner's failure to verify income. Exhibit A, pp. 8-11. During the hearing, MDHHS did not specify which income was allegedly unverified. However, Petitioner's only reported source of income on a MA Redetermination form submitted to MDHHS on September 6, 2023, was self-employment. Exhibit A, pp. 12-13. Given Petitioner's reporting, MDHHS presumably terminated Petitioner's MA eligibility due to an alleged failure to verify self-employment income.

Self-employment income must be verified at redetermination. BEM 502 (October 2019) p. 6. Self-employment verification may include tax return documents. *Id.*, p. 7.

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2023) p. 2. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* For MA, MDHHS is to allow the client 10 calendar days to provide the verification that is requested. *Id.*, p. 7. MDHHS may send a negative action notice when:

- The client indicates refusal to provide a verification, or

- The time period given has elapsed. *Id.*

MDHHS mailed Petitioner a VCL on October 23, 2023, requesting Petitioner's "2022 Tax Return Records" by November 2, 2023. Exhibit A, pp. 14-15. MDHHS acknowledged it received Petitioner's Form 1040 on October 26, 2023. MDHHS contended that Petitioner's full tax return was needed, and that Petitioner's two-page submission did not comply with the VCL request.<sup>1</sup> As a result, MDHHS initiated termination of Petitioner's MA eligibility on November 14, 2023 and sent Petitioner corresponding written notice.

Upon certification of eligibility results, MDHHS automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (November 2023) p. 2. There are two types of written notice: adequate and timely. *Id.*, pp. 2-5. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pending). *Id.* A timely notice is mailed at least 11 days before the intended negative action takes effect. *Id.*, pp. 4-5. The action is pending to provide the client a chance to comply with the proposed action. *Id.*, p. 4. Timely notice is given for a negative action unless policy allows for adequate or no notice. *Id.* When a client meets the requirement that caused the negative action, MDHHS is to delete the negative action. *Id.*, p. 13.

It was not disputed that the MA termination notice dated November 14, 2023 involved timely notice.<sup>2</sup> MDHHS testimony acknowledged that it received Petitioner's full tax return documents on November 20, 2023. Exhibit A, pp. 17-37. Petitioner's submission on November 20, 2023, occurred within 11 days of written notice of MA closure. MDHHS acknowledged that Petitioner's submission was timely enough so that the pending negative case action (MA closure) should have been deleted and that Petitioner's MA eligibility was redetermined. MDHHS testimony acknowledged that it did not delete the pending negative case action and that no redetermination occurred.

Given the evidence, it is found that MDHHS improperly terminated Petitioner's MA eligibility beginning December 2023. As a remedy, Petitioner is entitled to a processing of MA eligibility.

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<sup>1</sup> Arguably, Petitioner's submission complied with the VCL request. Nevertheless, for purposes of this decision, it will be accepted that MDHHS properly requested ALL Petitioner's 2022 tax documents and that Petitioner's initial submission was inadequate.

<sup>2</sup> Occasions when adequate or no notice is proper are listed in policy. BAM 220 (November 2023) pp. 3-5

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's MA eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

(1) Redetermine Petitioner's MA eligibility, effective December 2023, subject to the finding that MDHHS improperly failed to delete a negative case action for MA closure based on Petitioner's timely compliance of submitting income verifications; and

(2) Issue benefit supplements and notice, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



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**Christian Gardocki**

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**  
Susan Noel  
Wayne-Inkster-DHHS  
26355 Michigan Ave  
Inkster, MI 48141  
**MDHHS-Wayne-19-  
Hearings@michigan.gov**

**Interested Parties**  
Wayne 19 County DHHS  
BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]