



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  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: April 29, 2024  
MOAHR Docket No.: 24-002271  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford**

### **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 April 4, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Kienda Ivy, Eligibility Specialist.

### **ISSUE**

Did the Department properly close Petitioner's Medicaid (MA) 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 recipient of MA benefits under Extended Care MA coverage with a patient pay amount. While Petitioner stopped receiving long term care in a facility in 2021, her coverage remained unchanged due to the COVID-19 health emergency. (Exhibit A, p. 14).
2. Petitioner is disabled and less than [REDACTED] years old.
3. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross amount of [REDACTED] and \$174.70 is deducted from the gross amount to pay Petitioner's Part B Medicare Premium.
4. Petitioner receives a monthly pension in the amount of [REDACTED]

5. On December 1, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) notifying her that effective January 1, 2024, she was no longer eligible for MA coverage. (Exhibit A, p. 11).
6. On January 31, 2024, the Department received Petitioner's request for hearing disputing the closure of her MA coverage. (Exhibit A, p. 4).
7. On February 27, 2024, the Department sent Petitioner a Verification Checklist requesting a current statement from her bank or financial institution for a savings account, with a due date of March 8, 2024. (Exhibit A, p. 22).

### **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.

Upon reviewing Petitioner's eligibility criteria at redetermination, the Department concluded that Petitioner was not eligible for MA coverage under any program, concluding in the December 1, 2023 Health Care Coverage Determination Notice that she was not under 21, pregnant, the caretaker of a minor child in her home, over 65, blind or disabled. Petitioner filed a hearing request to dispute the Department's determination. Further, at the hearing, the Department added that the closure of Petitioner's MA coverage was due to Petitioner's failure to provide requested verification in the form of a current bank statement for Petitioner's savings account. Petitioner disputes the Department's finding that she did not provide the requested verification.

Further, while the HCCDN indicated that Petitioner was not disabled or caring for a minor child, this was determined to be inaccurate per Department testimony that Petitioner was considered disabled and she cared for a minor child in her home.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, and (iv) to individuals who meet the eligibility criteria for Plan First Medicaid (PF-MA) coverage. 42 CFR 435.911;

42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105 (January 2021), p. 2; 42 CFR 435.404.

Because Petitioner was disabled, Petitioner was eligible for MA under an SSI-related category. In determining the SSI-related MA category Petitioner is eligible for, the Department must determine Petitioner's MA fiscal group size and net income. As an unmarried individual, Petitioner has fiscal group size for SSI-related MA purposes of one. BEM 211 (October 2023), p. 8. The household's net income for MA purposes is [REDACTED] monthly [REDACTED] total gross unearned income from Petitioner's RSDI benefits and monthly pension payments reduced by a \$20 disregard). BEM 541 (January 2024), p. 3.

Based on this net income, Petitioner has excess income for eligibility under the AD-Care program, the full-coverage SSI-related MA program. BEM 163 (July 2017), p. 2; RFT 242 (April 2023), p. 1; <https://aspe.hhs.gov/poverty-guidelines>. However, clients who are ineligible for full-coverage AD-Care MA coverage because of excess income may still be eligible for SSI-related MA under a Group 2 SSI (G2S) program, which provides for MA coverage with a monthly deductible. BEM 105, p. 1.

In addition, even though Petitioner has excess income for AD-Care eligibility, since she is a parent or caretaker of a minor child, she is potentially eligible for MA coverage under the Group 2 Caretaker/Relative (G2C) program which provides MA coverage with a monthly deductible. The Department failed to show that it considered Petitioner's eligibility under either deductible program.

At the hearing the Department also alleged that it properly denied Petitioner MA coverage because Petitioner had failed to verify her bank account. In order to be eligible for MA under either G2S or G2C, Petitioner, based on her one-person MA fiscal group size, cannot have assets, which include cash in bank accounts, that exceed \$2,000 for G2S and \$3,000 for G2C. BEM 166, p. 2; BEM 135, p. 2; BEM 400 (March 2024), pp. 7, 8, 15. While the Department testified that Petitioner did not provide verification to the Department of her savings account, a December 2023 bank statement regarding Petitioner's savings account was in the Department's evidence packet, which was admitted to the formal record as Exhibit A (see page 30). The document was noted as "unable to use" without further explanation, and at the hearing the Department could not provide a basis for not considering it. It is further noted that the Department did not send Petitioner a VCL requesting verification of her bank account until February 27, 2024, after it had closed her MA case. Thus, the Department failed to establish that it properly closed Petitioner's MA case due to failure to verify assets.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA case based on failure to provide verification. The Department also did not act in accordance with Department policy when it failed to consider Petitioner's eligibility for MA coverage under G2S and G2C.

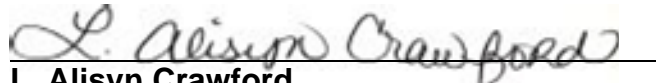
**DECISION AND ORDER**

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 MA coverage under G2S and G2S for January 1, 2024 ongoing;
2. If eligible, provide Petitioner with the most beneficial MA coverage she is eligible to receive from January 1, 2024 ongoing; and
3. Notify Petitioner in writing of its decision.

LC/ml



**L. Alisyn Crawford**

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**

Yvonne Hill

Oakland County DHHS Madison Heights Dist.

30755 Montpelier Drive

Madison Heights, MI 48071

**MDHHS-Oakland-DistrictII-Hearings@michigan.gov**

**Interested Parties**

BSC4

M Schaefer

EQAD

MOAHR

**Via First Class Mail:**

**Petitioner**

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