



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: August 29, 2024  
MOAHR Docket No.: 24-007237  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner**

### **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 by telephone on July 31, 2024. Petitioner and her spouse, [REDACTED] (Spouse), were present. Spouse represented Petitioner and himself. The Department of Health and Human Services (Department) was represented by Sunshine Simonson, Eligibility Specialist.

### **ISSUE**

Did the Department properly determine Spouse's Medicaid (MA) coverage and Medicare Savings Program (MSP) benefits effective May 1, 2024 ongoing?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Spouse is a married, disabled veteran who receives Medicare, and has a minor child.
2. On March 11, 2024, the Department received a completed MA redetermination application from Petitioner regarding the household's ongoing MA eligibility, including that of Spouse.
3. On March 28, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) that in relevant part approved Spouse for Plan

First Family Planning (PFFP) MA and denied MSP effective May 1, 2024. The HCCDN indicated Spouse's MSP was denied due to failure to return verification of a checking account. (Exhibit B, pp. 1, 9; see also Exhibit A, pp. 23 – 24).

4. On May 11, 2024, the Department closed Spouse's AD-Care MA coverage due to excess assets, effective June 1, 2024. (Exhibit A, pp. 13 – 14).
5. On June 14, 2024, the Department received Petitioner's request for hearing, disputing the Department's determination of Spouse's MA coverage and denial of MSP. (Exhibit A, pp. 3 – 6).

### **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.

Petitioner requested a hearing to dispute Spouse's loss of AD-Care MA coverage and closure of Spouse's MSP. The Department approved Spouse for PFFP and closed Spouse's MSP case, effective May 1, 2024; the Department also closed Spouse's AD-Care MA, effective June 1, 2024.

In this case, because Spouse is disabled, has Medicare, and is the caretaker of a minor child, he is potentially eligible for coverage under SSI-related or Group 2 Caretaker Relatives (G2C) MA categories, and for MSP benefits. SSI-related and the G2C MA categories and MSP all have asset tests and require the Department to consider a client's countable assets when determining eligibility for those categories. BEM 400 (April 2024), p. 1. For SSI-related and G2C MA categories, the Department must verify the value of countable assets at application, redetermination, and when a change is reported. BEM 400, p. 61. For purposes of those categories, countable assets include cash and funds in bank accounts, and the value of those assets cannot exceed the applicable asset limit, which is \$3,000 for SSI-related and G2C MA categories, and higher for MSP, for married individuals such as Spouse. BEM 400, pp. 1 – 2, 7 – 8, 10. To obtain verifications, the Department must send the client a Verification Checklist (VCL) that identifies what verification is required, how to obtain it, and the due date. BAM 130 (May 2024), p. 3. A checking or draft account may be verified by phone

contact with the financial institution, a written statement from the financial institution, or a monthly statement of the account. BEM 400, pp. 63 – 64.

For MA, the Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested, and if the client cannot provide the verification despite a reasonable effort, the time limit may be extended up to two times upon request of the client. BAM 130, p. 8. Policy requires that the Department give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source before determining eligibility. BAM 130, p. 9. For redetermination applications, when the client refuses to provide a verification, or the time period given has elapsed, the Department sends a HCCDN to notify the client that MA is being reduced or terminated. BAM 130, pp. 8 – 9.

In this case, the Department testified that it received a redetermination application from Petitioner on March 11, 2024. The Department issued a HCCDN to Petitioner on March 28, 2024, that approved Spouse for PFFP limited coverage, and denied Spouse for MSP based on failing to return verification of a bank account. (Exhibit B, pp. 1, 9). At the hearing, the Department testified that Spouse is eligible for full coverage AD-Care MA, but that he was denied due to excess assets, and reiterated that Spouse was denied MSP for failure to submit requested verifications. (Exhibit A, p. 1).

The Department testified that it sent a VCL, requesting verification of Petitioner and Spouse's assets, but the evidence established that the most recent VCL was sent on August 12, 2021. (Exhibit B, pp. 13 – 14). There was no evidence that the Department sent a VCL related to the March 11, 2024 redetermination application.

Although the Department introduced two deposit account balance summaries (Summaries) dated February 29, 2024, for accounts bearing Spouse's name that Petitioner submitted with her redetermination, the Summaries reflect the account balances as of that date but do not show balances throughout the month or the source of deposits into the accounts. (Exhibit A, pp. 20 – 21). Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 6. Additionally, funds treated as income cannot also be treated as assets for the same month for the same program. BEM 400, p. 23. Based on the limited information on the Summaries, the Department could not have determined whether Spouse had excess assets for purposes of MA and MSP and could not rely on the Summaries to establish the value of the bank accounts.

Therefore, because the Department failed to send a VCL during the redetermination process and failed to verify that Spouse's assets exceeded the applicable asset limit for each day of the processing month, it failed to show that it acted in accordance with policy when it determined Spouse's eligibility for MA and MSP.

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 AD-Care and MSP cases.

**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 Spouse's eligibility for MA and MSP for May 2024 ongoing, requesting additional verifications if necessary;
2. If eligible, provide Spouse with the most beneficial MA and MSP coverage he is eligible to receive for May 2024 ongoing; and
3. Notify Petitioner of its decision in writing.



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**Caralyce M. Lassner**  
Administrative Law Judge

CML/nr

**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**

Tara Roland 82-17  
Wayne-Greenfield/Joy-DHHS  
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**MDHHS-Wayne-17-hearings@michigan.gov**

**Interested Parties**

BSC4  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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