



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

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[REDACTED] MI [REDACTED]

Date Mailed: March 15, 2024  
MOAHR Docket No.: 24-000311  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

### **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 March 4, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

### **ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) Program 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. Under the Families First Coronavirus Response Act (FFCRA), PL 116-127, Michigan received additional federal MA funding during the COVID-19 pandemic health emergency (PHE).
2. As a condition for receiving the increased funding, § 6008 of the FFCRA required that MDHHS provide continuous MA coverage for individuals who were enrolled in MA on or after March 18, 2020, even if those individuals became ineligible for MA for reasons other than death, residing outside of Michigan, or requesting that MA be discontinued.

3. The MA continuous coverage requirement under § 6008 of the FFCRA was not indefinite.
4. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, terminated the continuous coverage requirement effective March 31, 2023.
5. Beginning April 1, 2023, the CAA, 2023 required MDHHS to reevaluate almost all MA recipients' eligibility for ongoing MA.
6. On October 4, 2023, the Department issued a Redetermination to Petitioner's address of record with a due date of November 3, 2023.
7. As of December 15, 2023, the Department had not received the completed Redetermination and issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that her MA benefits were closing for failure to return the completed redetermination effective January 1, 2024.
8. On January 2, 2024, the Department received Petitioner's request for hearing disputing the closure of her MA benefits indicating she had not received a copy of the redetermination packet.
9. Petitioner did not receive the redetermination packet.
10. Petitioner has had problems with receiving other mail including the Department's proposed exhibit packet.

### **APPLICABLE LAWS**

Authority for the ALJ to conduct the hearing is provided under MCL 400.9 and 400.37; 42 USC 1396(3); 42 CFR 431.200 to 431.250.

MDHHS policies are contained in the Michigan Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396 *et seq*; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, PL 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, PL 111-152; 42 CFR 430.10 to 42 CFR 430.25; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq*.

### **CONCLUSIONS OF LAW**

Starting April 1, 2023, ongoing MA eligibility must be renewed. For MA beneficiaries whose MA eligibility is based on their Modified Adjusted Gross Income (MAGI)-based income, MA must be renewed once every 12 months and no more frequently than once

every 12 months. 42 CFR 435.916(a)(1). For MA beneficiaries whose MA eligibility is not based on their MAGI-based income, MA eligibility must be redetermined at least every 12 months. 42 CFR 435.916(b). Any renewal form or notice must be accessible to persons who are limited English proficient and persons with disabilities. 42 CFR 435.916(f)(2).

In conducting this renewal or redetermination, MDHHS must check available information and data sources to attempt to redetermine eligibility before contacting the beneficiaries. 42 CFR 435.916(a)(2) and (b), 435.948, and 435.949. Before concluding that an individual is ineligible for MA, MDHHS must evaluate the individual's eligibility for MA on all bases for MA coverage, including the Medicare Savings Programs. 42 CFR 435.916(f)(1).

### **MA Case Closure Due to Failure to Respond/Verify**

In connection with Petitioner's MA redetermination, MDHHS closed Petitioner's MA case effective January 1, 2024 because Petitioner failed to return the completed Redetermination.

Under 42 CFR 435.916(a)(2) and (b), and consistent with §§ 435.948, 435.949, and 435.956, as well as BAM 800 (April 2022), pp. 2-5, MDHHS can renew MA eligibility using electronic resources/databases available to it. If information provided to MDHHS by or on behalf of an MA applicant or recipient is reasonably compatible with information obtained by MDHHS through electronic data exchange services, MDHHS must determine or renew eligibility based on such information. 42 CFR 435.952(b); BAM 210 (October 2022), p. 1.

If the individual is not eligible for MA based on information retrieved from electronic database services or other reliable sources or if information needed by MDHHS to determine eligibility cannot be obtained electronically or if the information obtained electronically is not reasonably compatible with information provided by or on behalf of the individual, then MDHHS may not deny or terminate eligibility or reduce benefits for the individual unless it first seeks additional information from the individual. 42 CFR 435.952(c) and (d). MDHHS may request from the Medicaid applicant or recipient only information that has changed or is missing. BAM 210, p. 2. Medicaid recipients who are eligible based on MAGI methodologies must have a minimum of 30 days to return their pre-populated renewal form and any requested information. Non-MAGI Medicaid recipients must be provided with a reasonable period of time to return their renewal form and any required documentation. Renewal forms and notices must be accessible to persons who have limited English proficiency (LEP) and persons with disabilities. 42 CFR 435.905(b).

MDHHS must notify MA recipients of the basis of an eligibility determination and notify them that they must inform the state if any of the information used to determine their eligibility is not accurate. 42 CFR 916(a)(2). If MAGI-based MA is terminated at renewal for failure to return the renewal form or other needed and requested documentation, MDHHS must reconsider the individual's eligibility without requiring a new application if the renewal form and/or requested information is returned within 90 days after the date

of termination. 42 CFR 435.916(a)(3)(iii) and (b). **States may, but are not required to, provide a reconsideration period for non-MAGI beneficiaries.**

In this case, Petitioner disputes the Department's closure of her MA benefits for failure to return the redetermination. In MA cases, benefits stop at the end of the benefit period or as in this case because of the COVID-related regulations, after the assigned redetermination period. BAM 210 (October 2023), p. 4. If the renewal is not completed, the benefits end. *Id.* In the common law, the proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 173 NW2d 225 688 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 241 NW2d 71 (1976); *Long-Bell Lumber Co v Nynam*, 108 NW 1019 (1906).

The Department mailed a redetermination to Petitioner which properly listed her address of record. Petitioner credibly rebutted the presumption of receipt indicating that she had not received it noting that she had also not received the proposed exhibit packet from the Department. Because Petitioner did not receive the redetermination, she could not comply with policy to ensure that the Department received the completed form. Therefore, the Department's closure of Petitioner's MA benefits is reversed.

### **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 eligibility effective January 1, 2024;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/cc



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**Amanda M. T. Marler**  
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 :**

**Interested Parties**

MDHHS-Wayne-17-hearings  
BSC4-HearingDecisions  
EQADHearings  
M. Schaefer  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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