



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

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Date Mailed: June 4, 2024  
MOAHR Docket No.: 24-004238  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Julia Norton**

### **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 May 29, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Ofon Ekpo, Eligibility Specialist.

### **ISSUE**

Did the Department properly terminate Petitioner's Medicaid (MA) coverage?

### **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 Healthy Michigan Plan (HMP) coverage.
2. Petitioner is self-employed as a driver with ██████████ (██████).
3. On April 1, 2024, the Department sent Petitioner a Verification Checklist (VCL) due on April 11, 2024, requesting recent business receipts, recent accounting or business records, a recent income tax return and earning summaries from ██████████. Exhibit A, pp. 8-10.
4. Petitioner submitted Self-Employment Income and Expense Statements (DHS-431) for January through March 2024 and ██████████ earning summaries. Exhibit A, pp. 11-16, 23-25.
5. On April 15, 2024 the Department received Petitioner's request for hearing explaining she was disabled and not able to work. Exhibit A, pp. 4-6.

6. On April 19, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice indicating that she would not be eligible for MA coverage effective May 1, 2024 ongoing because she failed to return verification of income, specifically, her income tax return. Exhibit A, pp. 26-28.
7. On or before April 30, 2024, at the Department's request, Petitioner provided the Department a written explanation indicating she did not file income tax returns for 2023 or 2024.

### **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 terminated Petitioner's HMP coverage, effective May 1, 2024, when Petitioner failed to return income verifications.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (October 2023), 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 cases, the client is allowed 10 calendar days (or other time limit specified in policy) to provide the verification requested. If the client cannot provide the verification despite a reasonable effort, the time limit is extended up to two times. *Id.*, p. 8. Verifications are considered timely if received by the date they are due. BAM 130, p. 7. 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. For purposes of MA coverage, acceptable verification of self-employment income for a non-tax filer is a completed Schedule C to verify expenses without a 1040. BEM 502 (October 2019) pp. 7-8. Further, the DHS-431 is not an acceptable verification of self-employment income for MA purposes. *Id.*

Here, Petitioner timely responded to the VCL by providing completed DHS-431s and DD earning statements. The April 19, 2024 HCCDN notified Petitioner that her MA was

closing because she failed to verify income. When she followed up with the Department, they explained that she had failed to submit a tax form. However, the VCL never notified Petitioner that the tax form was the only acceptable verification for MA purposes.

Petitioner explained that she was unable to provide a recent income tax return because she did not file taxes in 2023 or 2024 and credibly testified that she contacted the Department regarding her inability to provide a recent income tax return and the Department advised her to provide an explanation in writing. Petitioner complied with this instruction. The Department testified the explanation from Petitioner was received April 30, 2024, but had not been processed.

The Department terminated Petitioner's HMP coverage effective May 1, 2024. At the time it terminated coverage, Petitioner had made reasonable efforts to comply with the VCL. The Department should have explained to Petitioner that as a self-employed non-tax filer, she needed to submit a completed Schedule C to verify her income. The Department did not act in accordance with Department policy when it did not explain what verification was required and how to obtain it.

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 terminated Petitioner's MA coverage for failing to return income verifications.

### **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 for May 1, 2024 ongoing requesting verification of Petitioner's self-employment income, if necessary, and notifying Petitioner specifically what verification is required;
2. If eligible, provide Petitioner with the best available MA coverage effective May 1, 2024 ongoing; and
3. Notify Petitioner in writing of its decision.

JN/cc



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**Julia Norton**  
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-41-Hearings  
BSC4-HearingDecisions  
EQADHearings  
M. Schaefer  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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