



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: November 26, 2024  
MOAHR Docket No.: 24-009962  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

**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 October 30, 2024, from Lansing, Michigan. ██████ ██████ the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Troi Swift, Eligibility Specialist (ES).

During the hearing proceeding, the Department's hearing summary packet was admitted as Exhibit A, pp. 1-19 and Petitioner's additional documentation was admitted as Exhibit 1, pp. 1-9.

**ISSUE**

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA), including the Medicare Savings Program (MSP)?

**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 January ██████ 2024, the Department issued a Health Care Coverage Determination Notice to Petitioner indicating he was not eligible for MA effective February 1, 2024, in part because was not over age 65. (Exhibit B, p. 5)
2. On January ██████ 2024, the Department sent a Verification Checklist to Petitioner requesting verification of income tax refund, checking account, self-employment, and savings account with a due date of February 5, 2024. (Exhibit A, pp. 6-7)

3. On February ■ 2024, Petitioner submitted a copy of a Schedule C. (Exhibit A, pp. 8-9)
4. On June ■ 2024, a Client Benefit Notice was issued to Petitioner stating the information on file was reviewed and based on income and assets known to the Department, Petitioner's health care coverage would continue and was renewed for another year. The new renewal/redetermination date was August 2025. (Exhibit 1, pp. 1-2)
5. On July ■ 2024, the Department sent Petitioner an Unearned Income Notice regarding IRS interest. (Exhibit B, p. 3)
6. On August ■ 2024, the Department issued a Health Care Coverage Determination Notice to Petitioner indicating he was only eligible for limited coverage MA under the Plan First category effective February 1, 2024, and was not eligible for the MSP effective September 1, 2024, based on not providing information the Department asked for. (Exhibit A, pp. 10- 14)
7. On August 29, 2024, Petitioner filed a hearing request contesting a denial of MA. (Exhibit A, pp. 3-5)
8. On September ■ 2024, a Verification Checklist was sent to Petitioner requesting the Federal Tax Return with a due date of September 19, 2024. It was noted that the Department received the Schedule C and still needed the complete 1040 tax form to verify income. (Exhibit A, pp. 15-18)
9. On September ■ 2024, the Department issued a Health Care Coverage Determination Notice to Petitioner indicating he was not eligible for MA effective February 1, 2024, in part because was not over age 65. (Exhibit B, p. 4)
10. On September ■ 2024, Petitioner submitted a 1040 tax form. (Exhibit B, pp. 6-8; ES and Petitioner Testimony)
11. On September ■ 2024, the Social Security Administration (SSA) sent Petitioner a letter notifying him that the Department would no longer pay his Medicare Part B premium after August 2024. (Exhibit B, p. 9)

### **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 general, verification is to be obtained when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, May 1, 2024, pp. 1-4.

For MA, the Department must allow the client 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 Department can extend the time limit up to two times when specific conditions are met. These conditions include that the customer/authorized representative need to make the request. An extension should not automatically be given. Verifications are considered timely if received by the date they are due. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 8-9

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220, November 1, 2023, p. 2.

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). For MA, adequate notice is given in the following circumstances: a recipient or his legal guardian or authorized representative requests in writing that the case be closed; factual information confirms a recipient's death; it is verified that a recipient has been approved for assistance in another state; it is verified that an eligible child, or in MA, an eligible group member of any age, has been removed from the home as a result of court action; denial of request for medical transportation; case opening with a deductible or patient-pay amount; decrease in post-eligibility patient-pay amount; recipient removed due to his eligible status in another case; addition of MA coverage on a deductible case; increase in medical benefits; at case open with a divestment penalty. BAM 220, November 1, 2023, pp. 3-4.

Timely notice is given for a negative action unless policy specifies adequate notice or no notice. See Adequate Notice and, for FAP only, Actions Not Requiring Notice, in this item. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. BAM 220, November 1, 2023, pp. 4-5.

In this case, the Department's Hearing Summary indicates that the August ■ 2024 and September ■ 2024 Health Care Coverage Determination Notices issued to Petitioner indicating he was no longer eligible for full coverage MA or the Medicare Savings Program were based on Petitioner having not provided all requested verifications from a January ■ 2024 Verification Checklist. (Exhibit A, p. 1; ES Testimony). However, on June ■ 2024, a Client Benefit Notice was issued to Petitioner stating the information on file was reviewed and based on income and assets known to the Department, Petitioner's health care coverage would continue and was renewed for another year. The new renewal/redetermination date was August 2025. (Exhibit 1, pp. 1-2). Accordingly, it appears that the Department determined that they had sufficient verification to determine Petitioner's eligibility for MA as of the June 20, 2024 determination.

On August ■ 2024, the Department issued a Health Care Coverage Determination Notice to Petitioner indicating he was only eligible for limited coverage MA under the Plan First category effective February 1, 2024, and was not eligible for the MSP effective September 1, 2024, based on not providing information the Department asked for. (Exhibit A, pp. 10- 14). However, there was no evidence that the Department had sent any further request for verifications to Petitioner after the June 30, 2024 Client Benefit Notice was issued and before this August ■ 2024 Health Care Coverage Determination Notice was issued. Accordingly, the denials of MA and the MSP based on an alleged failure to provide requested verification cannot be upheld.

On September ■ 2024, a Verification Checklist was sent to Petitioner requesting the Federal Tax Return with a due date of September ■ 2024. It was noted that the Department received the Schedule C and still needed the complete 1040 tax form to verify income. (Exhibit A, pp. 15-18). On September 9, 2024, Petitioner submitted a 1040 tax form. (Exhibit B, pp. 6-8; ES and Petitioner Testimony).

It is also noted that on September ■ 2024, the Department also issued a Health Care Coverage Determination Notice to Petitioner indicating he was not eligible for MA effective February 1, 2024, in part because was not over age 65. (Exhibit B, p. 4). It is unknown why this notice was issued when there was a current request for verification issued that same date. Petitioner circled the portion of the denial reason indicating he is not over age 65. (Exhibit B, p. 4). No evidence was provided regarding Petitioner's age for this hearing. However, it appears that Petitioner was indicating this may be an error. Further, the effective date on this notice is February 1, 2024. There has been no policy identified that would allow for the retroactive effective date.

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 determined Petitioner's eligibility for MA, including the MSP.

**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 eligibility for MA, including the MSP, retroactive to the effective dates from the August ■ 2024 and September ■ 2024 Health Care Coverage Determination Notices.

CL/dm

  
Colleen Lack  
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**

Tracey Jones

Oakland County Southfield District III

**MDHHS-Oakland-6303-**

**Hearings@michigan.gov**

**SchaeferM**

**EQADHearings**

**BSC4HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

**Petitioner**

[REDACTED]

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