

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-016767
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: December 10, 2015
County: MUSKEGON

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on December 10, 2015, from Muskegon Heights, Michigan. The Petitioner was represented by [REDACTED], daughter and Authorized Hearing Representative. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Coordinator, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly approve Petitioner's July 22, 2015, application for Medical Assistance (MA)?

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 July 22, 2015, Petitioner applied for MA, including Medicaid, retroactive Medicaid and the Medicare Savings Program.
2. On August 5, 2015, a Health Care Coverage Determination Notice was issued to Petitioner indicating Medicaid was approved as of April 1, 2015, and the Medicare Savings Program was approved as of August 1, 2015.
3. On August 28, 2015, a request for hearing was filed on Petitioner's behalf.

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.

As discussed during the hearing proceedings, there were several issues raised that this Administrative Law Judge (ALJ) has no jurisdiction to address. For example, there is no authority for this ALJ to review any actions taken by the Social Security Administration (SSA).

Similarly, this ALJ could not review the older MA case actions taken by the Department. Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2015), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, the Department sent Petitioner a Notice of Case Action advising Petitioner of its decision to close Petitioner's benefits case for Medical Assistance (MA). The Department's Health Care Coverage Determination Notice to Petitioner was dated January 16, 2015. (Department Exhibit A, pp. 7-10) It was confirmed that Petitioner's address on this notice was correct. However, Petitioner did not file a request for hearing

to contest the Department's action until August 28, 2015. Accordingly, the hearing request was not timely filed to contest the January 16, 2015 determination to close Petitioner's MA benefits case.

Petitioner's August 28, 2015, hearing request was only timely filed to review the Department's August 5, 2015, actions, the approval of her July 22, 2015, MA application.

Retroactive Medicaid coverage is only available back to the first day of the third calendar month prior to the current application for Medicaid. BAM 115, (July 1, 2015), p. 11.

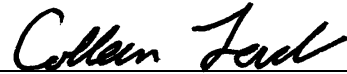
An individual may be approved as a Qualified Medicare Beneficiary (QMB) for the Medicare Savings Program. QMB coverage begins the calendar month after the processing month. The processing month is the month during which an eligibility determination is made. QMB is not available for past months or the processing month. BEM 165, (January 1, 2015) p. 3.

On July 22, 2015, Petitioner applied for MA, including Medicaid, retroactive Medicaid and the Medicare Savings Program. On August 5, 2015, a Health Care Coverage Determination Notice was issued to Petitioner indicating Medicaid was approved as of April 1, 2015, and the Medicare Savings Program was approved as of August 1, 2015. The Department properly approved three months of retroactive Medicaid coverage, which is the maximum number of months allowed under BAM 115. Similarly, Petitioner was properly approved for the Medicare Savings Program as a QMB effective August 1, 2015, the calendar month after the processing month for the July 22, 2015 application. (Department Exhibit A, pp. 40-43 and 52)

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 acted in accordance with Department policy when it approved Petitioner's July 22, 2015, application for MA.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/30/2015**

Date Mailed: **12/30/2015**

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NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

