

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

IN THE MATTER OF:

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MAHS Reg. No.: 15-021339
Issue No.: 2001
Agency Case No.: ██████████
Hearing Date: ██████████ 2016
County: Wayne-District 57
(Conner)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, a telephone hearing was held on January 19, 2016, from Detroit, Michigan. Petitioner appeared at the hearing. She was represented by ██████████ ██████████, hearing representative with ██████████ ██████████, Petitioner's authorized hearing representative (AHR), who participated via 3-way telephone conference. The Department was represented by ██████████, Family Independence Manager.

ISSUE

Did the Department properly deny Petitioner's February 13, 2014 disability-based Medicaid (MA-P) application, with request for retroactive coverage to November 2013?

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 May 7, 2014, the medical consultant from the Medical Review Team (MRT) signed a medical-social eligibility certification, approving Petitioner under an April 1, 2014 application for disability-based MA and for State Disability Assistance (SDA) based on the MA approval. The certification indicates an eligibility begin date of January 2013 and schedules Petitioner for a medical review on May 2015. (Exhibit A, pp. 15-16.)
2. The Department activated MA coverage for Petitioner on January 1, 2014 and this coverage was showing as continuing as of the hearing date (Exhibit C).

3. On February 13, 2014, the AHR filed an MA application on Petitioner's behalf with a request for retroactive coverage to November 2013.
4. On March 30, 2015, a medical packet was forwarded to MRT for the May 1, 2015 medical review. On September 11, 2015, the medical consultant signed a medical-social eligibility certification approving Petitioner for continuing eligibility for disability-based MA. The narrative in the certification states as follows:

Review was [originally] assigned and deferred. When case was reassigned for review, only SDA, and not MA-P as well, was reviewed and approved as no evidence of significant medical improvement (201.00(h))

The evidence does not support the presence of significant medical improvement to date. There is a SSA case that is on appeal and is at the AC level of review – SSA decision not final and binding yet.

Benefits continue with 05/01/2016 review date.

(Exhibit A, pp. 8-14).

5. There is another medical social eligibility certification concerning Petitioner's 5/1/2015 medical review in Petitioner's file. This one was signed by the medical consultant on August 6, 2015. The checkboxes indicate that Petitioner was denied SDA and ongoing eligibility for disability-based MA; the page with the checkboxes has clearly been altered. The rationale indicates in handwriting "The medical in file does not support the severity listed by client." (Exhibit A, pp. 1-7).
6. On October 28, 2015, the Department received the AHR's request for hearing disputing an August 17, 2015 Health Care Coverage Determination Notice that denied Petitioner MA from January 1, 2014 ongoing on the basis that she was eligible for the program in another case and because she was not disabled per the Department's determination.

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.

The AHR disputed the Department's finding that Petitioner was not disabled and the denial of the February 13, 2014 application, with request for retroactive coverage to November 2013.

The Medical Review Team (MRT) reviews medical evidence for disability or blindness and certifies the client's medical eligibility for assistance. BAM 815 (July 2013), p. 1. If a client is not eligible for Retirement Survivors and Disability Insurance (RSDI) income based on disability or blindness, and as long as there was no final denial of Supplemental Security Income (SSI) by the Social Security Administration (SSA) based on SSA's determination that the client is not disabled/blind, MRT certifies disability and blindness for MA-P purposes. BEM 260 (July 2013), p. 3.

A client is not referred for an MRT medical determination if the case contains a valid MRT certification. BEM 260 (July 2013). A valid MRT certification requires all of the following:

- A determination by the SSA that the client is **not** disabled or blind for SSI purposes is **not final** as defined in policy.
- The medical review is **not** due or past due.
- The client continues to be unable to engage in substantial gainful activity.
- The client's condition is the same.

BEM 260, p. 4.

In this case, in a medical-social eligibility certification signed on May 7, 2014, MRT approved Petitioner for disability-based MA and for SDA with an eligibility begin date of January 2013 and a medical review date of May 2015 (Exhibit A, pp. 16-17). There was no evidence presented at the hearing that, at the time of Petitioner's February 2014 application, SSA had made a final determination that Petitioner was not blind or disabled. When the application was filed on February 13, 2014, the review date was not due or overdue; in fact, it was not scheduled until May 2015. There was no evidence that Petitioner was able to engage in substantial gainful activity or that her condition had improved. To the contrary, the medical-social eligibility certification completed by MRT in connection with the May 2015 medical review and signed by the medical consultant on September 11, 2015 concluded that Petitioner had no medical improvement and continued to be disabled for MA-P purposes (Exhibit A, pp. 8-14). While another medical-social eligibility certification in Petitioner's file signed by the medical consultant on August 6, 2015 indicates that Petitioner's ongoing eligibility for disability-based MA and SDA is denied (Exhibit A, pp. 1-7), this certification has clearly been tampered with (See Exhibit A, p. 5). Further, the narrative in the medical social eligibility certification signed on September 11, 2015 addresses MA-P eligibility and indicates that only SDA,

not MA-P, was considered in the original review and states that the other review found no evidence of significant medical improvement (Exhibit A, p. 11). Presumably, this refers to the August 6, 2015 certification and further reinforces the conclusion that the August 6, 2015 certification has been altered. Based on the evidence presented, the May 7, 2014 MRT certification remains a valid certification.

Because there was a valid MRT certification on file at the time of Petitioner's February 2014 MA application that established eligibility as of January 2013, the Department did not act in accordance with Department policy to the extent it sent the medical documentation pertaining to the February 2014 MA application to MRT. Rather, the Department should have activated coverage for November 2013 in accordance with the certification showing an eligibility begin date of January 2013.

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 denied Petitioner's application and retroactive application and failed to activate MA coverage beginning November 1, 2013.

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. Provide Petitioner with MA coverage she is eligible to receive from November 1, 2013 ongoing based on MRT's finding of disability.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/3/2016**

Date Mailed: **2/3/2016**

ACE / tlf

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

