

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

IN THE MATTER OF:



MAHS Reg. No.: 15-023948
Issue No.: 2009
Agency Case No.: [REDACTED]
Hearing Date: February 10, 2016
County: GENESEE

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, an in-person hearing was held on February 10, 2016, from Flint, Michigan. The Petitioner, [REDACTED] appeared and was represented by her Authorized Hearing Representative (AHR) [REDACTED] of Advomas. The Department was represented by Hearing Facilitator, [REDACTED]

ISSUE

Whether the Department properly determined that Petitioner was not disabled for purposes of the Medical Assistance (MA) and Retro-MA benefit programs?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Based on the testimony on the record, and the email correspondence which is also been admitted as the Petitioner's exhibit in the record, and based also on the fact that the Department is not contest the issue any longer, this hearing request is found to be timely.
2. On February 3, 2014, the Petitioner applied for MA based on disability.
3. On August 10, 2014, the Medical Review Team (MRT) denied the Petitioner's request.
4. On August 18, 2014 the Department sent the Petitioner a DHS-1606 Health Care Coverage Determination Notice, informing the Petitioner that her application for MA had been denied.
5. On October 1, 2014, the Petitioner was found to be eligible for Retirement, Survivors, Disability Insurance (RSDI) with a disability onset date of March 13, 2014.

6. On December 23, 2015, the Petitioner's AHR submitted a hearing request based on her approval for federal disability benefits, protesting that the Department had not yet activated MA coverage back to the first day of the third calendar month prior to her entitlement of federal benefits, based on Bridges Administrative Manual (BAM) 115, p. 11.

CONCLUSIONS OF LAW

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

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.

A person eligible for Retirement, Survivors and Disability Insurance (RSDI) benefits based on disability or blindness meets the disability or blindness criteria. BEM 260 (2015), p. 1. Disability or blindness starts from the RSDI disability onset date established by the SSA. BEM 260, p. 2. A previously denied application is treated as if it is a pending application when the reason for the denial was that the Medical Review Team (MRT) determined the individual was not disabled and subsequently the Social Security Administration (SSA) finds the individual entitled to RSDI based on disability for some or all the time covered by the denied MA application. BEM 260, p. 2. The Department's worker is to follow MA policies, including verification of income, assets and receipt of RSDI based on disability/blindness. All eligibility factors must be met for each month.

In this case, the Petitioner's AHR cites BAM 115 (2015) p. 11, to support his proposition that the retro-MA should be granted as that policy provides that coverage is available back to the first day of the third calendar month prior to SSI entitlement. Though somewhat persuasive, in this case the Petitioner receives RSDI. This Administrative Law Judge concludes that BEM 260 is clear that the previous denied application should be treated as if it is pending in this situation. As such, and based on an application date of February, 2014, the Petitioner is found to be disabled as of November, 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 Petitioner disabled for purposes of the MA benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is **REVERSED**.

THE DEPARTMENT IS ORDERED TO INITIATE 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. The Petitioner meets other, financial eligibility factors, activate the Petitioner's disability MA case retroactive to November, 2013.
2. Issued a Petitioner any supplement she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human
Services

Date Mailed: **2/16/2016**

SEH/nr

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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:

