



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 16, 2016
MAHS Docket No.: 16-003926
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on April 27, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included her authorized hearing representative [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Petitioner's request 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 December 7, 2011, the Department received the Petitioner's Medical Assistance (MA) application alleging disability and requesting retroactive benefits through September 1, 2011. Department Exhibit A, p 1.
2. On February 23, 2012, the Medical Review Team (MRT) determined that the Petitioner is not disabled. Department Exhibit A, p 1.
3. On July 16, 2013, the [REDACTED] approved the Petitioner for Supplemental Security Income (SSI) back to [REDACTED]. Exhibit A, p 10.
4. On December 24, 2015, the Petitioner applied for retroactive Medical Assistance (MA) as of September 1, 2011. Exhibit A, pp 7 – 9.

5. On January 27, 2016, the Department sent the Petitioner's case to the Medical Review Team (MRT) along with additional medical records submitted by the Petitioner. Department Exhibit A, p 1.
6. On February 19, 2016, the Medical Review Team (MRT) determined that its previous finding that the Petitioner is not disabled stands. Department records indicate that the MRT reported that it does not review a time period with decision already made. Exhibit A, pp 11 – 14.
7. On March 16, 2016, the Department received the Petitioner's request for a hearing protesting the denial of Medical Assistance (MA) as of September 1, 2011. Exhibit A, pp 2 – 4.

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.

An SSI recipient who is a Michigan resident and cooperates with third-party resource liability requirements is automatically eligible for ongoing MA beginning the first day of SSI entitlement. Department of Health and Human Services Bridges Eligibility Manual (BEM) 150 (October 1, 2015), p 1. Clients who are SSI recipients may also qualify for retroactive MA coverage for up to three calendar months prior to SSI entitlement. BEM 150, p. 1; Department of Health and Human Services Bridges Administrative Manual (BAM) 115 (January 1, 2016), p 11. The DHS-3243, Retroactive Medicaid Application, is used to apply for retro MA, and the Department must determine eligibility for each of the retro months requested, which requires that the person (i) meet all financial and nonfinancial eligibility factors in that month and either (ii) have unpaid medical expenses incurred during the month or have been entitled to Medicare Part A. BAM 115, pp 11 – 13.

On February 23, 2012, the MRT denied the Petitioner's application for retroactive MA coverage for September 2011 finding that she was not disabled. Subsequent to MRT's decision, the SSA approved Claimant's December 2011, application for SSI and approved her for SSI benefits starting in December of 2011. Relying on the Petitioner's SSI approval, her representative filed a second MA retroactive application for

September 2011 coverage on December 24, 2015, along with additional medical records not reviewed by the MRT.

On February 19, 2016, the MRT determined that its previous finding that the Petitioner is not disabled stands. The MRT concluded that it does not review a time period with a decision already made.

Department policy expressly permits a client approved for SSI to request up to three months' retroactive MA coverage from the date of SSI entitlement by filing a retroactive MA application. A client is not precluded from filing an application in instances, such as those in this case, where MRT has previously made a disability determination concerning the retroactive months at issue. To the contrary, Department of Health and Human Services Bridges Administrative Manual (BAM) 110 (January 1, 2016), pp 19 – 20, clearly requires that the Department register all applications and written requests for assistance with sufficient identifying information. Once the application is processed, the Department is required to notify a client of the approval and/or denial of an application. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (January 1, 2016) p 2. If a client's previous DDS and/or SSA medical determination was not approved, the client has to prove a new or worsening condition in order to start the medical determination process again. Department of Health and Human Services Bridges Administrative Manual (BAM) 815 (January 1, 2016), p 7.

In this case, the Petitioner did submit a request for retroactive MA benefits accompanied by new medical documentation not already considered by the DDS and the Department did not act in accordance with Department policy when it failed to register and process the December 24, 2015, retroactive MA application in accordance with policy.

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 the Petitioner's request for retroactive Medical Assistance (MA) effective September 1, 2011.

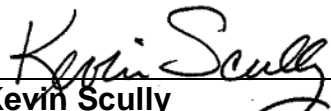
DECISION AND ORDER

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:

Initiate a determination of the Petitioner's eligibility for retroactive Medical Assistance (MA) as of September 1, 2011, in accordance with policy with adequate notice to the Petitioner.

KS/las



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

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

DHHS

[REDACTED]

[REDACTED]

Counsel for Petitioner

[REDACTED]

Petitioner

[REDACTED]