



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: July 29, 2016
MAHS Docket No.: 16-008092
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 July 26, 2016, from Lansing, Michigan. The Petitioner was represented by [REDACTED] of [REDACTED]. The Department of Health and Human Services (Department) was represented by Hearings Facilitator [REDACTED].

ISSUE

Did the Department properly deny Petitioner's 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 March 21, 2014, Petitioner applied for MA (Exhibit 1 Pages 11-29) and other assistance.
2. On October 7, 2014, Petitioner authorized [REDACTED] to serve as his Authorized Representative (AR) (Pages 7-8) in applying for MA, and to access his medical records for 36 months.
3. Following a determination by the Medical Review Team (MRT) that Petitioner was not disabled, Petitioner requested a hearing, and in a Decision dated February 10, 2015 (Pages 32-40) Administrative Law Judge Colleen Lack reversed the Department.

4. On February 5, 2016, the AR applied for MA, requesting retroactive coverage for three months prior to the application. (Pages 4-6.)
5. In its cover letter (Page 10) the AR requested coverage of a November 2, 2013 hospital stay.
6. MA was approved on February 17, 2015, with coverage dating back to December 1, 2013 (Page 31).
7. On February 19, 2015, the Department certified that it had complied with Administrative Law Judge Lack's Decision (Page 30).
8. On December 11, 2015, the Social Security Administration (SSA) notified the AR that Petitioner "met all the rules to be eligible for SSI" as of January 2014. (Page 3.)
9. On June 14, 2016, the AR requested a hearing (Page 2) in which it alleges the Department has not processed the February 5, 2016 application for retroactive MA.

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.

Under BAM 115 (7/1/16) p. 11, retroactive "MA coverage is available back to the first day of the third calendar month prior to . . . For SSI, entitlement to SSI."

The "Standard of Promptness" for acting on an MA application requires the Department to "Certify program approval or denial of the application within 45 days." BAM 115 p. 15. An exception exists if disability is a factor, and that extends the standard of promptness to 90 days. BAM 115 p. 16.

In this case, Petitioner applied, through his AR, for retro MA on February 5, 2016. The Department did not provide any evidence to refute Petitioner's claim that the Department has not approved or denied the application.

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 failed to issue an approval or denial of the MA application within 90 days.

Because the Department has not taken any action on the application, there is no "decision" to be affirmed or reversed. Inasmuch as their failure to act has effectively been a denial, that action will be reversed.

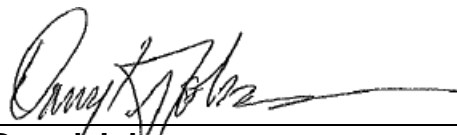
DECISION AND ORDER

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. Initiate a review of the February 5, 2016, application for retroactive MA to determine Petitioner's eligibility. The Department shall inform Petitioner and his AR of the determination in writing.
2. The Department shall supplement for lost benefits, if any, that Petitioner was eligible to receive, if otherwise eligible and qualified in accordance with Department policy.

DJ/mc



Darryl Johnson
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]

Counsel for Petitioner

[REDACTED]

Petitioner

[REDACTED]