



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: August 31, 2016  
MAHS Docket No.: 16-008609  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

**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 August 1, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] Family Independence Manager and [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department provide Petitioner with proper notice that it moved her from a previously approved MA program to another MA program requiring a monthly deductible?

**FINDINGS OF FACT**

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

1. Petitioner is an ongoing MA recipient.
2. Prior to [REDACTED], Petitioner was receiving MA benefits under the Healthy Michigan Plan.
3. The Department determined that Petitioner had been enrolled in the incorrect plan.
4. The Department further determined that based upon Petitioner's income, she was eligible for MA subject to a deductible.

5. In the first or second week of June 2016, Petitioner was verbally made aware of the change.
6. The Department did not provide Petitioner written notice of the change.
7. On [REDACTED], Petitioner filed a Request for Hearing disputing the Department's actions.

### **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.

Additionally, a negative action, as defined by the Department, is a MDHHS action to deny an application or to reduce, suspend or terminate a benefit. This includes an increase in a post-eligibility patient-pay amount for MA or an increase in the client pay for a special living arrangement See BAM 220 (April 2016), p.1. A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested. See BAM 220, pg. 2.

In this case, Petitioner received income from the Social Security Administration and a monthly pension for a total monthly income of [REDACTED]. Petitioner confirmed that she is disabled and has a group size of one. The Department testified that it had previously provided Petitioner with benefits under the Healthy Michigan Plan. MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for HMP coverage. BEM 105 (January 2016), p. 1; BEM 137 (January 2016), p. 1.

HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. MPM, Healthy Michigan Plan, § 1.1.

Petitioner confirmed that she pays the Medicare Part B premium each month in the amount of [REDACTED] each month and as such, is eligible for Medicare. Additionally, clients are eligible for Group 2 MA coverage when their net income less any allowable needs deductions exceeds the applicable Group 2 MA protected income levels (PIL), which is based on the client's shelter area and fiscal group size. BEM 105 (January 2016), p. 1; RFT 240 (December 2013), p. 1. In such cases, the client is eligible for Group 2 MA coverage under the deductible program, with the deductible equal to the amount that the client's monthly income exceeds the PIL. BEM 545 (January 2016), p. 11. It therefore appears that Petitioner is eligible for MA subject to the deductible program. Given that Petitioner qualifies for Medicare and another MA program, she is ineligible for HMP. The Department testified that it realized that Petitioner had been enrolled in the wrong MA plan and corrected the mistake in May 2016, which was scheduled to affect Petitioner's June 2016 MA benefits.

The change in programs caused Petitioner's full MA benefits to end, and as of [REDACTED], [REDACTED] the Department testified that Petitioner was eligible for MA subject to a [REDACTED] per month deductible. The Department acknowledged that it did not send Petitioner notice of the change. Department policy requires that a DHS-114, Deductible Notice, is generated when MA is approved with a deductible. BAM 220(April 2016), p.21.

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 changed Petitioner's MA program, effective [REDACTED], without proper notice.

### **DECISION AND ORDER**

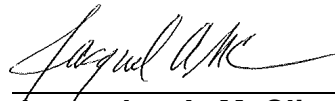
Accordingly, the Department's decision is **REVERSED**.

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. Reinstate Petitioner's HMP benefits effective [REDACTED];

2. Issue supplements to Claimant for MA benefits she was eligible to receive but did not receive from [REDACTED], ongoing; and
3. Notify Claimant, in writing, of its decision.

JM/hw



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**Jacquelyn A. McClinton**

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]

**Petitioner**

[REDACTED]