



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR

[REDACTED]

Date Mailed: March 28, 2016  
MAHS Docket No.: 16-001064  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric Feldman**

### **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, an in-person hearing was held on March 23, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

### **ISSUE**

Did the Department properly implement and certify a previous Decision and Order (D&O) regarding an administrative hearing held on December 9, 2015?

### **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 [REDACTED] Petitioner requested a hearing disputing the denial of full MA coverage for himself/spouse.
2. On [REDACTED], an administrative hearing was held in which the undersigned Administrative Law Judge (ALJ) (hereinafter referred to as "undersigned") sent a D&O on [REDACTED] and ordered the Department to:  
(i) redetermine Petitioner's MA eligibility by completing level 2 and if necessary, level 3, of the Systematic Alien Verification for Entitlements (SAVE) Program process in order to determine Petitioner's date of entry; and (ii) notify Petitioner in

writing of the Department's new MA eligibility determination (Reg. No. 15-019286). See Exhibit A, p. 10.

3. On or around [REDACTED], the Department returned to the Michigan Administrative Hearing System (MAHS) an Administrative Hearing Order Certification (DHHS-1843) indicating that it complied with the order by initiating a help desk ticket with the technical support team ([REDACTED]). See Exhibit A, pp. 1 and 11.
4. On [REDACTED], the technical support team sent a resolution e-mail stating that it was not possible to move to Level 2 of the SAVE process when Step 1 is verified and the eligibility was determined to be Emergency Services Only (ESO). See Exhibit A, pp. 1 and 12.
5. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying Petitioner and his spouse are eligible for only ESO coverage effective [REDACTED], ongoing. See Exhibit A, pp. 6-9.
6. The Department failed to process the undersigned's originally D&O issued on [REDACTED].
7. On [REDACTED], Petitioner requested a hearing disputing the denial of full MA coverage for himself. See Exhibit A, p. 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.

### **Preliminary matters**

First, Petitioner also disputed the denial of full MA coverage for his spouse. However, a review of Petitioner's hearing request discovered that he only requested a hearing in which he disputed his denial of full MA coverage. See Exhibit A, p. 4. As such, the

undersigned lacks the jurisdiction to address Petitioner's dispute with his spouse's MA coverage. See BAM 600 (October 2015), pp. 1-6.

Second, Petitioner argued that he submitted a timely hearing request within 10-days of the mailing of the determination notice dated [REDACTED]. See Exhibit A, pp. 4 and 9. As such, Petitioner argued that he should have received full-MA coverage pending the outcome of this hearing decision.

A timely hearing request is a request received by the department within 10 days of the date the notice of case action was issued. BAM 600, p. 24. When the 10th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday. BAM 600, p. 24. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. BAM 600, p. 24. Upon receipt of a timely hearing request, reinstate program benefits to the former level for a hearing request filed because of a negative action. BAM 600, p. 24.

In the present case, Petitioner's hearing request might have been timely, but, Petitioner was only receiving ESO coverage, not full-MA coverage, prior to the determination notice dated [REDACTED]. See Exhibit A, pp. 4-9. As such, the Department properly continued to issue ESO coverage for the Petitioner pending the outcome of the hearing decision in accordance with Department policy. See BAM 600, p. 24.

### **Decision and Order (D&O)**

In the present case, Petitioner requested another hearing in which he disputed the same issues previously addressed in an administrative hearing held on [REDACTED], [REDACTED]. As such, the undersigned will not address any further the arguments presented for the reasons stated below:

In the previous administrative hearing, the undersigned ordered the Department to: (i) redetermine Petitioner's MA eligibility by completing level 2 and if necessary, level 3, of the SAVE Program process in order to determine Petitioner's date of entry; and (ii) notify Petitioner in writing of the Department's new MA eligibility determination (Reg. No. 15-019286). See Exhibit A, p. 10.

On or around [REDACTED], the Department returned to MAHS an Administrative Hearing Order Certification (DHHS-1843) indicating that it complied with the order by initiating a help desk ticket with the technical support team ([REDACTED]). See Exhibit A, pp. 1 and 11.

On [REDACTED], the technical support team sent a resolution e-mail stating that it was not possible to move to Level 2 of the SAVE process when Step 1 is verified and the eligibility was determined to be ESO. See Exhibit A, pp. 1 and 12.

All hearing decisions must be recorded in the Department's system, on the Hearing Restore Benefits screen. BAM 600, p. 41. Some hearing decisions require

implementation by the local office. BAM 600, p. 41. The Department implements a D&O within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 41. The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, p. 42. The Department completes and sends the DHS-1843, Administrative Hearing Order Certification, to MAHS to certify implementation and place a copy of the form in the case file. BAM 600, p. 42.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it failed to properly implement and certify the D&O sent on [REDACTED] (Reg. No. 15-019286). Yes, the Department timely submitted the Administrative Hearing Order Certification to MAHS. BAM 600, p. 42. However, the Department ultimately failed to implement the undersigned's D&O issued on [REDACTED]. The undersigned specifically ordered the Department to redetermine Petitioner's MA eligibility by completing the additional steps of the SAVE process. However, the Department did not comply with the undersigned's order. See Exhibit A, p. 12. The technical support team concluded that it was not possible to move to Step 2. See Exhibit A, p. 12. If the Department is making such a conclusion that it cannot proceed to the next step of the SAVE process, then it should have appealed the undersigned's hearing decision by filing a request for rehearing or reconsideration within 30 days of the mailing of the hearing decision issued on [REDACTED] or appeal the decision to circuit court. See BAM 600, pp. 38 and 43-46. The Department ultimately disagrees with the undersigned's conclusion that it must proceed to the next step of the SAVE process. However, there was no evidence that the Department appealed the undersigned's previous hearing decision. Because the Department failed to implement the undersigned's hearing decision and failed to appeal the hearing decision, the hearing decision issued on [REDACTED] is binding and the Department must implement the D&O in accordance with Department policy. See BAM 600, pp. 41-42.

### **DECISION AND ORDER**

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 properly implement and certify the D&O sent on [REDACTED] (Reg. No. 15-019286).

Accordingly, the Department's MA 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. Implement and certify the D&O mailed on [REDACTED], from the previous administrative hearing (Reg. No. 15-019286), in accordance with Department policy.

EF/hw



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**Eric Feldman**

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]