



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: October 21, 2016
MAHS Docket No.: 16-002015
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

DECISION AND ORDER OF DISMISSAL

This matter is before the Michigan Administrative Hearing System (MAHS) and the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon the Petitioner's request for a hearing.

After due notice, and following a telephone pre-hearing conference with the previously-assigned ALJ and multiple adjournments at the request of the parties, an in-person hearing was held on October 12, 2016.

[REDACTED], an attorney with the [REDACTED], represented Petitioner. Petitioner testified on her own behalf. [REDACTED] from the [REDACTED] was also present for Petitioner.

[REDACTED], Appeals Review Officer, represented the Respondent Department of Health and Human Services. [REDACTED], Adult Services Specialist, testified as a witness for Department. [REDACTED], Adult Services Supervisor, was also present for the Department.

At the onset of the hearing, the parties and undersigned Administrative Law Judge discussed what the issue or issues on appeal were. Petitioner's representative then stated that the hearing was requested because the Department failed to comply with a previous Decision and Order of ALJ [REDACTED], when it failed to complete a timely and correct reassessment of Petitioner's needs and services and when it refused to give Petitioner a time and task sheet regarding the HHS she was approved for until she had a provider to enroll. Petitioner's representative also identified the Department's refusal to provide Petitioner with a time and task sheet regarding what services were approved as the crux of the case, and stated that is a systematic error that the Department needs to acknowledge. As relief, Petitioner sought an acknowledgment by the Department or an order by the ALJ, that the Department erred by withholding information regarding the type and amount of services that would be approved until Petitioner enrolled a provider.

Following that discussion, the undersigned Administrative Law Judge raised the question of whether he had jurisdiction over the issues raised by Petitioner. However, he also declined to make a ruling at that time and the hearing proceeded on the merits. The undersigned Administrative Law Judge did indicate that he would still be reviewing his jurisdiction in this matter following the hearing.

Upon further review, the undersigned Administrative Law Judge now finds that he lacks jurisdiction in this matter and that it must be dismissed.

The Code of Federal Regulations (CFR) affords a Medicaid beneficiary a right to a fair hearing when the Department takes an action that is a denial, reduction, suspension, or termination of a requested or previously authorized Medicaid covered service. See 42 CFR 431.220.

Here, while the Department took actions in this case, the relief Petitioner seeks, a ruling that the Department erred, is not tied to any of those actions and Petitioner expressly does not seek a reassessment or an award of additional HHS that she may otherwise be entitled to. Moreover, as Petitioner is now enrolled in the [REDACTED] and is no longer interested in any retroactive or prospective HHS, any issue is legally moot, as it would have no effect on Petitioner's case.

Whatever relief may be available for Petitioner elsewhere, Petitioner does not dispute any action taken by the Respondent Department as defined by the CFR, and her issue is moot. Accordingly, the undersigned Administrative Law Judge lacks jurisdiction and the matter must be dismissed.

IT IS HEREBY ORDERED:

- The above-titled matter is **DISMISSED**.

SK/tm



Steven Kibit
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 30763
Lansing, Michigan 48909-8139

DHHS Department Rep.

[REDACTED]
[REDACTED]
[REDACTED]
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