



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: May 20, 2016  
MAHS Docket No.: 16-003084  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

### **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 May 11, 2016, from Detroit, Michigan. Petitioner did not appear. [REDACTED], Petitioner's son and guardian, appeared as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist, and [REDACTED], manager.

### **ISSUES**

The first issue is whether Petitioner's AHR timely requested a hearing.

The issue is whether MDHHS properly failed to process Petitioner's application for Medical Assistance (MA) benefits.

### **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's AHR submitted an application to MDHHS requesting MA benefits for his mother.
2. MDHHS failed to process Petitioner's MA application.

3. On [REDACTED], Petitioner's AHR requested a hearing to dispute the failure by MDHHS to process Petitioner's MA eligibility from March 2015 through May 2015.

### CONCLUSIONS OF LAW

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's AHR requested a hearing to dispute an alleged MDHHS failure to process an application requesting MA benefits for his mother. Petitioner's AHR alleged the application was submitted to MDHHS on [REDACTED]. Before Petitioner's allegation may be evaluated, MDHHS raised a procedural argument.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (1/2015), p. 6. The request must be received in the local office within the 90 days. *Id.*

MDHHS testimony indicated an unspecified negative action was taken on Petitioner's case in November 2015. It was not disputed that Petitioner's hearing request submission date ([REDACTED]) was more than 90 days after the most recent negative action on Petitioner's case.

A hearing must be requested within 90 days of the issuance of the written notice in dispute. Had MDHHS denied Petitioner's application and issued proper written notice of denial in November 2015, then Petitioner would be barred from pursuing an administrative remedy; this was not the case. Petitioner requested a hearing alleging MDHHS failed to process Petitioner's MA application dated [REDACTED]. MDHHS conceded there was no corresponding written notice because the application was never processed. Without issuance of written notice, the 90 day time limit to request a hearing never commences.

It is found Petitioner is not barred from pursuing an administrative remedy due to timeliness. Accordingly, the merits of Petitioner's AHR's claim can be examined.

Petitioner's AHR alleged he submitted an application requesting MA benefits for his mother to MDHHS on [REDACTED]. MDHHS testimony conceded receipt of an application from March 2015 requesting MA benefits for Petitioner. Based on presented

evidence, it is found Petitioner's AHR submitted an MA application to MDHHS on [REDACTED].

MDHHS has certain timeframes in which applications should be processed; the timeframes are referred to as standards of promptness. [For MA benefits, MDHHS is to certify program approval or denial of the application within 45 days. BAM 115 (January 2015), p. 13. The timeframe when disability is a factor is 90 days (see *Id.*).

It is not known if Claimant's MA eligibility was or was not based on a claim of disability. Either way, MDHHS failed to comply with application processing standards of promptness. Accordingly, MDHHS will be ordered to register and process Claimant's application for MA benefits dated [REDACTED].

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to process Petitioner's MA application. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) register Petitioner's MA application dated [REDACTED]; and
- (2) initiate processing of Claimant's application within the applicable standard of promptness.

The actions taken by DHHS are **REVERSED**.

CG/hw



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**Christian Gardocki**  
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]

**Authorized Hearing Rep.**

[REDACTED]