



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: November 4, 2016
MAHS Docket No.: 16-012504
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

**ORDER OF DISMISSAL
FOR LACK OF JURISDICTION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and 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 November 2, 2016, from Ypsilanti, Michigan. The Petitioner was represented by her Authorized Hearing Representative (AHR)/counsel, [REDACTED], from the [REDACTED]. Petitioner was also present at the proceeding and testified at the proceeding. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager; and [REDACTED], Eligibility Specialist.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

In this case, Petitioner is an ongoing recipient of the Medical Assistance (MA) - Supplemental Security Income (SSI) program. Exhibit A, pp. 5-6 (State On-Line Query (SOLQ)).

On [REDACTED], Petitioner filed a hearing request in which she disputed the following: (i) she had been attempting unsuccessfully to apply for the Freedom to Work

(FTW) since she began working full-time in [REDACTED]; (ii) previous to this date, she was receiving Medicaid through SSI; (iii) the Social Security Administration (SSA) never initiated FTW; (iv) she had tried numerous times over the past two years to communicate with caseworkers, but to no avail; and (v) she is wrongfully receiving Medicaid without paying a premium. Exhibit A, pp. 2-3.

In response to Petitioner's claim, the Department argued the following: (i) Petitioner is an ongoing recipient of the MA - SSI program, but that has its own case number; and in order to determine if she is eligible for FTW, she must submit a new application and have a new case number created (Exhibit A, p. 1. (Hearing Summary)); (ii) Petitioner never submitted an MA application in order for the Department to determine if she is eligible for the FTW program; (iii) the Department requested Petitioner submit an application, but to no avail; (iv) the Department provided proof of that Petitioner submitted an application for Food Assistance Program (FAP) benefits, but never requested MA (Exhibit A, pp. 7-9); and (v) the Department argued that the undersigned Administrative Law Judge (ALJ) lacks the jurisdiction to address Petitioner's MA concerns (i.e., 90-day time limit to request hearings).

Petitioner's AHR makes the following arguments and/or assertions: (i) Petitioner had an ongoing MA program and reported in [REDACTED] that her income had increased and the Department should have acted on this reported change at the time and determine if she is eligible for FTW; (ii) Petitioner and/or her AHR attempted numerous times to contact the Department for assistance, but to no avail and/or a lack of response from the Department without no communication; (iii) Petitioner's concern was with the delay of the Department processing an MA application, which, if processed now, would have resulted in a denial for FTW (her income is above the 250% of the Federal Poverty Level (FPL) for initial income eligibility); (iv) if she applied, they feared her current MA-SSI coverage would be terminated, resulting in no MA coverage; (v) Petitioner has experienced trouble in the past with her Home Help Provider case; (vi) Petitioner testified that the first time she was ever notified to apply was in [REDACTED]; (vii) the AHR points out the Department had access to her income at the time, including her application for FAP benefits; and (viii) the AHR seeks that the undersigned ALJ order the Department to determine Petitioner's eligibility for the FTW program dating back to [REDACTED].

Freedom to Work (FTW) is an SSI-related Group 1 MA category. BEM 174 (July 2013), p. 1. FTW is available to a client with disabilities age 16 through 64 who has earned income. BEM 174, p. 1. Eligibility begins the first day of the calendar month in which all eligibility criteria are met. BEM 174, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 174, p. 1. Note, SSI recipients whose SSI eligibility has ended due to financial factors are among those who should be considered for this program. BEM 174, p. 1.

Supplemental Security Income (SSI) is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. BEM 150 (January 2014), p. 1. The Social Security Administration (SSA) determines SSI eligibility. BEM 150, p. 1.

To be automatically eligible for Medicaid (MA) an SSI recipient must both: (i) be a Michigan resident; and (ii) cooperate with third-party resource liability requirements. BEM 150, p. 1.

DHHS administers MA for SSI recipients, including a continued MA eligibility determination when SSI benefits end. BEM 150, p. 1. Ongoing MA eligibility begins the first day of the month of SSI entitlement. BEM 150, p. 1. Some clients also qualify for retroactive (retro) MA coverage for up to three calendar months prior to SSI entitlement; see BAM 115. BEM 150, p. 1.

The following individuals are considered SSI recipients for MA purposes even though they do not receive an SSI cash grant:

- Individuals appealing termination of SSI because SSA has determined they are no longer disabled or blind. DHS local offices are responsible for determining initial and continuing eligibility; see MA While Appealing Disability Termination in this item.
- 1619 Recipients - Certain blind or disabled SSI recipients who work and have too much income for an SSI cash grant may be eligible for continued MA coverage. SSA determines eligibility. These recipients are the same as other SSI recipients in Bridges.

BEM 150, p. 1.

Additionally, the Department determines eligibility and benefit amounts for all requested programs. BAM 105 (April 2014), p. 15; see also BAM 110 (July 2014), pp. 1-23 (Application filing and registration); and BAM 115 (July 2014), pp. 1-35 (Application processing). Supplemental Security Income (SSI) recipients, title IV-E recipients, special needs adoption assistance recipients and department wards are automatically eligible for current MA, see BEM 117 and 150. BAM 105, p. 18.

The Department reviews the effect on eligibility whenever the client reports a change in circumstances. BAM 105, p. 16. Actions must be completed within the time period specified in BAM 220. BAM 105, p. 16. At application and redetermination, thoroughly review all eligibility factors in the case. BAM 105, p. 16. At application, redetermination, semi-annual contact and mid-cert contact, check all available automated systems matches to see if income has started, stopped or changed (for example: consolidated inquiry (CI), SOLQ, etc.). BAM 105, p. 16.

Based on the foregoing information and evidence, the undersigned ALJ lacks the jurisdiction to address Petitioner's MA concerns because no negative action ever took place. Petitioner's counsel argued several points, including Petitioner's reported change in income, which should have resulted in the Department determining her eligibility for FTW. But the undersigned disagrees. Policy states that the Department determines

eligibility and benefit amounts for all requested programs. BAM 105, p. 15. In order to request FTW coverage, Petitioner must have submitted an application for MA benefits in order for the Department to determine eligibility. The Department registers a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19. However, Petitioner failed to submit an MA application; thus, an eligibility determination for FTW never took place. Because Petitioner failed to submit an application for MA benefits and no negative action ever took place, the undersigned ALJ lacks the jurisdiction to address Petitioner's MA concerns.

Accordingly, Petitioner's MA hearing request (dated [REDACTED]) is **DISMISSED**.

IT IS SO ORDERED.

EJF/jaf



Eric J. 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.

DHHS

[REDACTED]

Petitioner

[REDACTED]

Counsel for Petitioner

[REDACTED]

[REDACTED]