



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: October 20, 2016
MAHS Docket No.: 16-013002
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Marya Nelson-Davis

HEARING DECISION

Following Claimant'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 October 12, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED], Petitioner's legal guardian. [REDACTED], Family Independence Manager, appeared as a representative and witness on behalf of the Department of Health and Human Services (Department).

ISSUE

Must the Department redetermine Petitioner's eligibility for Medicare Cost Share benefits retro to the date of closure?

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 was a recipient of Medicaid (MA) which included Medicare Cost-Sharing benefits. (See Department's Hearing Summary)
2. Petitioner is a legally incapacitated individual.
3. The Department was aware that Petitioner had a legal guardian at all times relevant to this matter.
4. The Department sent Petitioner a Medicare Cost Share Redetermination packet with forms to be completed and requested that Petitioner provide verification

needed to determine his continued eligibility for the benefits. (See Department's Hearing Summary)

5. The redetermination packet was not sent to Petitioner's legal guardian.
6. On May 16, 2016, the Department sent Petitioner notice that his Medicare Cost Share benefit case would be closed effective May 27, 2016. (See Department's Hearing Summary)
7. The notice of closure with regard to Petitioner's Medicare Cost Share benefit case was not sent to Petitioner's legal guardian on May 16, 2016.
8. On September 9, 2016, after learning that the Department closed Petitioner's Medicare Cost Share benefit case, Petitioner's legal guardian requested a hearing on Petitioner's behalf to protest the closure.

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.

Medicaid coverage includes Medicare cost-sharing benefits. This means Medicaid pays Medicare Part B premiums or Part A and B premiums, coinsurances and deductibles for certain Medicaid recipients. A person who can receive Medicare Part A free of charge is encouraged to apply for it. Medicaid may pay the following for Medicaid recipients who are entitled to Medicare:

- Medicare Part A premiums.
- Medicare Part B premiums.
- Part of Medicare Part B premiums.
- Medicare deductibles and coinsurances.

The type of Medicare cost-sharing benefits depends on the type of Medicaid eligibility. (BAM 810)

The Department of Health and Human Services must periodically redetermine or renew an individual's eligibility for active programs. The redetermination process includes thorough review of all eligibility factors. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. (BAM 210)

A Petitioner must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. (BAM 105)

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if they need and requests help. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. For MA, if the client cannot provide the verification despite a reasonable effort, the time limit can be extended up to two times when specified circumstances exist. The Department is to send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. (BAM 130)

In this case, the Department representative stated on the record that the Department is willing to redetermine Petitioner's eligibility for MA and Medicare Cost Share benefits. The Department representative agreed to redetermine Petitioner's eligibility for Medicare Cost Share benefits retro to the date of closure. According to the Department representative, although the Department knew that Petitioner had a legal guardian, it sent the redetermination packet and the notice of termination of Medicare Cost Share benefits to Petitioner, a legally incapacitated individual, instead of Petitioner's legal guardian.

DECISION AND ORDER

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

WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER, THE DEPARTMENT IS ORDERED TO **BEGIN DOING** THE FOLLOWING:

Redetermine Petitioner's eligibility for Medicare Cost Share benefits retro to the date of closure in accordance with Department policy.



MND/mc

Marya Nelson-Davis
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]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]