



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: January 4, 2017
MAHS Docket No.: 16-015669
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.* upon Petitioner's request for a hearing.

After due notice, a hearing was held on January 3, 2017. [REDACTED], Petitioner's niece and authorized hearing representative, appeared and testified on Petitioner's behalf. Petitioner also appeared and testified.

[REDACTED], Hearings Coordinator, represented the Department's Waiver Agency, the [REDACTED] (Waiver Agency or [REDACTED]). [REDACTED] Director of Business and Financial Services appeared as a witness.

ISSUE

Did the Waiver Agency properly determine that it could not reimburse Petitioner for lifeline services purchased through a company not affiliated with the Waiver Agency?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Department contracts with [REDACTED] to provide MI Choice Waiver services to eligible beneficiaries.
2. [REDACTED] must implement the MI Choice Waiver program in accordance with Michigan's waiver agreement, Department policy and its contract with the Department.

3. On June 14, 2016, a hearing was held at the request of Petitioner requesting reimbursement for caregiver services and lifeline services that were paid by him due to a disenrollment done, in part, by information provided to [REDACTED] via the Community Health Automated Medicaid Processing System (CHAMPS). The CHAMPS system showed Petitioner's Medicaid ending on [REDACTED] and services were stopped effective [REDACTED]. (Exhibit A, p 2; Testimony)
4. On [REDACTED], Petitioner's Medicaid was reinstated retroactive to [REDACTED] and at the June 14, 2016 hearing, [REDACTED] agreed to reimburse Petitioner for services through [REDACTED] that he had paid out of pocket. (Exhibit A, p 9; Testimony)
5. However, at the June 14, 2016 hearing [REDACTED] did not agree to reimburse Petitioner for his lifeline services because when his services were cut, Petitioner chose to receive lifeline services through a company not affiliated with [REDACTED]. Petitioner also chose to enter into a 2 year contract with the new company. (Exhibit A, pp 10-11; Testimony)
6. On [REDACTED] discussed with Petitioner the fact that the service he purchased was not transferrable to the company Region 9 AAA contracts with to provide lifeline services and, as such, Region 9 AAA would not be able to reimburse Petitioner for the cost of lifeline services during the period he was dis-enrolled. (Exhibit A, p 2; Testimony)
7. On [REDACTED], Petitioner's request for hearing was received by the Michigan Administrative Hearing System. (Exhibit 1; Testimony)

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

This Petitioner is receiving services through the Department's Home and Community Based Services for Elderly and Disabled (HCBS/ED). The waiver is called MI Choice in Michigan. The program is funded through the federal Centers for Medicare and Medicaid (formerly HCFA) to the Michigan Department of Health and Human Services (Department). Regional agencies function as the Department's administrative agency.

Waivers are intended to provide the flexibility needed to enable States to try new or different approaches to the efficient and cost-effective delivery of health care services, or to adapt their programs to the special needs of

particular areas or groups of recipients. Waivers allow exceptions to State plan requirements and permit a State to implement innovative programs or activities on a time-limited basis, and subject to specific safeguards for the protection of recipients and the program. Detailed rules for waivers are set forth in subpart B of part 431, subpart A of part 440 and subpart G of part 441 of this chapter. *42 CFR 430.25(b)*

Petitioner's niece testified that while [REDACTED] did offer them a new lifeline service through their own contracted provider, Petitioner could not accept because he already has a two year contract with a new company. Petitioner's niece indicated that if they accepted [REDACTED] offer for a new lifeline service, Petitioner would have two lifeline services, which he simply does not need. Petitioner's niece testified that her understanding from the prior hearing was that Petitioner would be reimbursed for everything except the new lifeline pendant that he purchased through the new company. Petitioner's niece testified that there was no way for Petitioner to know that when his services were mistakenly cancelled, through no fault of his own, that he had to continue services with a company affiliated with [REDACTED]. Petitioner's niece testified that they paid a [REDACTED] activation fee with the new company, plus [REDACTED] per month for the service. Petitioner's niece testified that the total they will have to pay under the two year contract is [REDACTED]

Based on the evidence presented, Petitioner has failed to prove, by a preponderance of the evidence that the Waiver Agency erred in denying him reimbursement for lifeline services. While it is unfortunate that Petitioner's services were mistakenly cancelled, the Waiver Agency can only provide services through companies and agencies that it contracts with. Because Petitioner chose to contract with a company the Waiver Agency has no contract with, and because Petitioner also chose to enter into a two year contract with that company, the Waiver Agency would have no method of reimbursing Petitioner for the services in question. While this outcome will certainly seem unfair to Petitioner, this Administrative Law Judge possesses no equitable jurisdiction to order the Waiver Agency to reimburse Petitioner just because it would seem like the right thing to do. The Waiver Agency provided sufficient evidence that it worked within policy to correct the Department's mistake with regard to Petitioner's eligibility and to reimburse him for the [REDACTED] services he paid out of pocket. While the undersigned can sympathize with Petitioner's request, there is simply no remedy that this tribunal can order in a case such as this.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Waiver Agency properly denied Petitioner's request for reimbursement of lifeline services.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.



RM/cg

Robert J. Meade

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

Petitioner

[REDACTED]

DHHS -Dept Contact

[REDACTED]

DHHS -Dept Contact

[REDACTED]

Community Health Rep

[REDACTED]

Authorized Hearing Rep.

[REDACTED]