



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 10, 2017  
MAHS Docket No.: 17-000168  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric J. Feldman**

### **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; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, an in-person hearing was held on February 2, 2017, from [REDACTED], Michigan. The Petitioner was represented by her Authorized Hearing Representative (AHR), [REDACTED], from [REDACTED] Petitioner, [REDACTED] her spouse/translator, [REDACTED] and her son/translator, [REDACTED] were also present for the hearing and provided testimony. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearings Facilitator.

During the hearing, Petitioner/AHR waived the time period for the issuance of this decision in order to allow for the submission of additional records. **The requested documents were NOT received.** The record closed on or about March 5-6, 2017, and the matter is now before the undersigned for a final determination based on the evidence presented.

### **ISSUE**

Whether the Department properly determined that Petitioner was not disabled for purposes of the Medical Assistance (MA-P) benefit program?

### **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 or about September 20, 2013 and October 8, 2013, Petitioner submitted an application for public assistance seeking retroactive MA-P for September of 2013.

2. On or about March 18, 2016, Petitioner applied for Social Security Insurance (“SSI”) income based on her alleged disability. Exhibit B, p. 2.
3. On September 1, 2016, the Social Security Administration (SSA) found Petitioner not disabled. Exhibit 1, p. 1.
4. Subsequent to the SSA denial, the spouse wrote a letter disputing the denial, but failed to file a proper request for hearing form for SSA purposes.
5. On September 28, 2016, the Disability Determination Service (DDS)/Medical Review Team (MRT) found Petitioner not disabled for purposes of the MA-P program. Exhibit A, pp. 22-28.
6. On October 11, 2016, the Department sent Petitioner a Benefit Notice notifying her that she was denied MA-P for the retroactive month of September 2013. Exhibit A, pp. 16-17.
7. On November 23, 2016, SSA sent Petitioner a letter stating in order to file a hearing, she must fill out the enclosed request for a hearing by administrative law judge, disability report, and the authorization to disclose information to SSA forms within 15-days. Exhibit 1, p. 2.
8. Petitioner did not file the request for hearing within 15-days; therefore, she did not appeal the SSA determination.
9. On January 5, 2017, the Department received the AHR’s timely written request for hearing. Exhibit A, pp. 2-6.

### **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), and Department of Health and Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA-P) 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-P program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner’s AHR is disputing the denial of Petitioner’s MA-P program for the month of September 2013. However, during the hearing, the undersigned

Administrative Law Judge (ALJ) discovered that Petitioner failed to appeal her SSA denial, which makes the final SSA determination binding on Petitioner's MA-P case.

Individuals applying for or receiving disability-related MA must apply for SSI as a potential resource. BEM 270 (April 2016), p. 1. When the SSA determines that a client is not disabled/blind for SSI purposes, the client may appeal that determination at SSA. BEM 260 (July 2015), p. 11. The SSA Appeals Process consists of 3 steps:

1. Reconsideration (if initial application filed prior to October 1, 1999).
2. Hearing.
3. Appeals Council.

BEM 260, p. 11. SSA has no time limits for making decisions on appeals. BEM 260 p. 11. The client has 60 days from the date he or she receives a denial notice to appeal an SSA action. BEM 260, p. 3, 9; BEM 271, p. 11. SSA's final determination that the client is not disabled/blind for SSI, not Retirement, Survivors, and Disability Insurance (RSDI), takes precedence over an DDS determination. BEM 260, p. 3.

SSA's determination that disability or blindness does not exist for SSI is final for MA if:

- The determination was made after 1/1/90, and
- No further appeals may be made at SSA; see EXHIBIT II in this item, or
- The client failed to file an appeal at any step within SSA's 60 day limit, and
- The client is not claiming:
  - A totally different disabling condition than the condition SSA based its determination on, or
  - An additional impairment(s) or change or deterioration in his condition that SSA has not made a determination on.

BEM 260, p. 3. Eligibility for MA based on disability or blindness does not exist once SSA's determination is final. BEM 260, p. 3.


In the record presented, SSA found Petitioner not disabled in a letter dated September 1, 2016. Exhibit 1, p. 1. Petitioner's spouse indicated that he did not appeal the SSA letter dated November 23, 2016, which informed Petitioner that she must appeal the SSA denial decision within 15-days of that letter. Furthermore, the AHR sought coverage for September 2013 due to Petitioner's hospitalization that occurred at [REDACTED] [REDACTED] for September 2013. Exhibit A, pp. 59-144. The SSA decision considered evidence from the [REDACTED] as well. Exhibit 1, p. 1. In light of the foregoing, the final SSA determination denying Petitioner's SSI application is binding on the Petitioner's MA-P case. Accordingly, the Department's determination is affirmed. See BEM 260, pp. 1-11.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Petitioner not disabled for purposes of the MA-P benefit program.

Accordingly, the Department's determination is **AFFIRMED**.

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**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 (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

**Counsel for Petitioner**

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