



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: July 6, 2017
MAHS Docket No.: 17-006081
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, a telephone hearing was held on June 8, 2017, from Lansing, Michigan. The Petitioner was represented by her mother and Authorized Representative, [REDACTED] [REDACTED] appeared and testified. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator. Department Exhibit 1, pp. 1-33 was received and admitted.

ISSUE

Did the Department properly determine Petitioner's Medicare Savings Program eligibility?

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's Medicaid and Medicare Savings Program were due for review in August 2016.
2. Benefits were processed for closure on August 19, 2016, because redetermination forms had not been received.
3. Petitioner submitted redetermination forms online on August 29, 2016, prior to closure.

4. Medicare Savings Program benefits were reinstated on September 19, 2016.
5. On April 24, 2017, Petitioner requested hearing contesting the determination of Medicare Savings Program benefits.

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.

All Programs

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600

In this case, the Department reinstated Medicare cost share benefits before they closed. Reimbursement payments are handled by the buy-in unit. The Department representative at hearing stated that she was told it may take 4-6 months for premium reimbursement to occur. BEM 165 BAM 810 The Department Representative asserted at hearing that Petitioner's request for hearing was untimely because the Department action took place on September 19, 2016, more than 90 days prior to the request for hearing. The Department representative stated at hearing that Petitioner never had a lapse in benefits. BAM 600 does require that requests for hearings be filed within 90 days of the Department action. Since the Department action was more than 90 days prior to the request for hearing, it is untimely. BAM 600

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 that the Petitioner's request for hearing was untimely and therefore must be dismissed.

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

AM/md



Aaron McClintic
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]

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]