



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: July 21, 2017  
MAHS Docket No.: 17-006652  
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; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a three-way telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by his Authorized Hearing Representative (AHR), [REDACTED], from [REDACTED]. Petitioner, [REDACTED], was also present at the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED] Family Independence Manager; and [REDACTED], Eligibility Specialist.

### **ISSUE**

Did the Department fail to process Petitioner's retroactive Medical Assistance (MA) application for the period of [REDACTED]?

### **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 is [REDACTED] years old (date of birth: [REDACTED]), and he is disabled. [Exhibit 1, pp. 7 and 25.]
2. Petitioner was hospitalized from [REDACTED]. [Exhibit 1, p. 4.]
3. Petitioner previously submitted applications to the Department seeking MA benefits on the basis of a disability and was denied. [Exhibit A, pp. 14-24 and 27-35.]

4. On [REDACTED], the Social Security Administration (SSA) sent Petitioner a Supplemental Security Income (SSI) Notice of Award letter. Petitioner was found to be disabled by SSA as of [REDACTED]; and he was approved for SSI benefits effective [REDACTED]. [Exhibit 1, pp. 7-24.]
5. As a result of the SSA letter, on [REDACTED], the AHR submitted a DHS-3243, Retroactive Medicaid Application, for the month of [REDACTED]. In the AHR's letterhead dated [REDACTED], it stated that the retroactive MA application was submitted because per policy, the retroactive MA application can be filed for the three months prior to the SSI approval of [REDACTED]. [Exhibit 1, pp. 3-6.]
6. The Department never processed Petitioner's retroactive MA application for [REDACTED]
7. On [REDACTED], the AHR filed a hearing request, protesting the Department's failure to process the retroactive MA application. [Exhibit A, pp. 2-3.]

### **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.

In the present case, the Department argued that Petitioner's retroactive MA application should not be processed. The Department argued that the time limit to apply for MA benefits in [REDACTED] has tolled because the AHR is attempting to apply for these benefits more than [REDACTED] years after the medical expenses had occurred. The Department further claimed that Petitioner has previously applied for the MA benefits and had been denied.

In response, the AHR argued that per BEM 150, p. 1, and BAM 115, p. 11, it was allowed to submit the retroactive MA application. The AHR understood that it has been almost few years since the medical expenses were accrued in [REDACTED]; however, the AHR argued that it was not until [REDACTED], that it learned Petitioner was found to be eligible for SSI. [Exhibit 1, p. 7.] Specifically, the SSA Notice of Award letter stated Petitioner was found to be disabled in [REDACTED] and continuing; and he was

eligible for SSI beginning [REDACTED]. [Exhibit 1, p. 7.] As a result, the AHR submitted the retroactive MA application for [REDACTED] because policy states that retroactive applications can be filed for the three months prior to the SSI approval of [REDACTED]. [Exhibit 1, pp. 3-6.] The undersigned agrees with the AHR's argument.

Supplemental Security Income (SSI) is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. BEM 150 (October 2015), p. 1. The Social Security Administration (SSA) determines SSI eligibility. BEM 150, p. 1.

In Michigan, the Department supplements federal SSI payments based on the client's living arrangement. BEM 150, p. 1. Thus, in this item SSI recipient means a Michigan resident who receives the basic federal payment, the state supplement, or both. BEM 150, p. 1. To be automatically eligible for Medicaid (MA) an SSI recipient must both: be a Michigan resident and cooperate with third-party resource liability requirements. BEM 150, p. 1. The Department 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 DHS-3243, Retroactive Medicaid Application, is used along with the DHS-4574 or DCH-1426 for retro MA applications. BAM 110 (July 2016), p. 4. Only one DHS-3243 is needed to apply for one, two or three retro MA months. BAM 110, p. 4.

Retro MA coverage is available back to the first day of the third calendar month prior to the entitlement of SSI. BAM 115 (October 2016), p. 11. The Department determines eligibility for each retro MA month separately. BAM 115, p. 13. To be eligible for a retro MA month, the person must: meet all financial and nonfinancial eligibility factors in that month, and have an unpaid medical expense incurred during the month, or have been entitled to Medicare Part A. BAM 115, pp. 13-14.

Verification sources for current receipt of SSI include a copy of a current SSI aware letter from SSA. BEM 150, p. 9.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it failed to process Petitioner's retroactive MA application for [REDACTED]. As stated above, the undersigned agrees with the AHR's argument. The undersigned reviewed policy and determined there is no time limitation when an individual can apply for retroactive MA application upon learning of their SSI approval. The undersigned also reviewed policy and did not find any limitation stating that he cannot seek retroactive MA upon learning of his SSI approval because he was already previously denied MA benefits by the Department. Instead, BAM 115 and BEM 150 clearly state that a retroactive MA application can be filed for three months prior to the SSI approval. BAM 115, p. 11, and BEM 150, p. 1. The evidence established that on [REDACTED], SSA notified Petitioner that he was found to be disabled in

██████████ and was eligible for SSI benefits beginning ██████████. [Exhibit 1, p. 7.] As a result of Petitioner's entitlement to SSI on ██████████, policy allows Petitioner to submit a retroactive MA application for the months of ██████████, ██████████, and ██████████. BAM 115, p. 11, and BEM 150, p. 1. In this case though, on ██████████, the AHR submitted a retroactive MA application for only the month of ██████████. [Exhibit 1, pp. 3-6.] Therefore, the Department should have processed the retroactive MA application for ██████████ because this retroactive month was filed three months prior to Petitioner's SSI approval of ██████████. BAM 115, p. 11, and BEM 150, p. 1.

Accordingly, the Department is ordered to register and process Petitioner's retroactive MA application for the period of ██████████ in accordance with Department policy.

### **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 Department did not act in accordance with Department policy when it failed to process Petitioner's retroactive MA application for ██████████.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate registration and processing of Petitioner's retroactive MA application for the period of ██████████;
2. Issue supplement to Petitioner for any MA benefits he was eligible to receive but did not from ██████████; and
3. Notify Petitioner and AHR of its decision.

EJF/jaf



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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

**DHHS**

[REDACTED]

**Counsel for Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
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