



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: August 7, 2017  
MAHS Docket No.: 17-005769  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 telephone hearing was held on July 17, 2017, from Detroit, Michigan. Petitioner did not appear and was represented by [REDACTED]. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

**ISSUE**

The issue is whether MDHHS properly denied Petitioner's application for Medical Assistance (MA).

**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 [REDACTED] Petitioner applied for MA benefits.
2. On [REDACTED] Petitioner submitted a second application for MA benefits after Petitioner's earlier application for MA benefits went unprocessed.
3. On [REDACTED], MDHHS mailed Petitioner's authorized representative (AR) a Health Care Coverage Supplemental Questionnaire with a due date of [REDACTED].
4. On [REDACTED], MDHHS received a completed Health Care Coverage Supplemental Questionnaire.

5. On [REDACTED], MDHHS denied Petitioner's application for MA benefits due to Petitioner's failure to timely return a Health Care Coverage Supplemental Questionnaire.
6. On [REDACTED] Petitioner requested a hearing to dispute the denial of MA benefits.

### **CONCLUSIONS OF LAW**

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGIM).

Petitioner requested a hearing to dispute a denial of MA benefits. It was not disputed that Petitioner first applied for MA benefits on [REDACTED] 6. MDHHS conceded Petitioner's application was not processed before Petitioner submitted another application for MA benefits on [REDACTED].

MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-3) dated [REDACTED]. The notice informed Petitioner of a denial of MA benefits from [REDACTED]; the stated reason for denial was Petitioner's failure to timely return a Health Care Coverage Supplemental Questionnaire.

If an individual indicates a disability during the application process, additional information may be needed. MAGIM (May 28, 2014), p. 3. A DHS-1004, Supplemental Health Care Questionnaire will be provided to collect this information. *Id.* The supplemental form must be returned to the local DHS office so that a determination of Medicaid eligibility based on age or disability may be completed. *Id.*

[For MA, MDHHS is to] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130 (January 2017) p. 8. [For MA

benefits, MDHHS is] to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. *Id.*

MDHHS presented a copy of a Health Care Coverage Supplemental Questionnaire (Exhibit 1, pp. 4-6) sent to Petitioner's AR on [REDACTED]. The stated due date for return was [REDACTED].

MDHHS presented a copy of the Health Care Coverage Supplemental Questionnaire (Exhibit 1, pp. 7-8) returned by Petitioner's AR. It was not disputed that Petitioner's AR returned the questionnaire to MDHHS on [REDACTED]. The submission date was 1 day after the form's due date.

Presented evidence verified MDHHS requested documentation from Petitioner and that the documentation was returned after the due date. This consideration is supportive in affirming the MDHHS denial of MA benefits. Multiple considerations justify finding otherwise.

MDHHS waited over 9 months to process Petitioner's first MA application. Had MDHHS processed and denied Petitioner's application within their standards of promptness, Petitioner could have at least reapplied with little-to-no loss of eligibility. Assuming Petitioner's AR received the denial notice in February 2017, the earliest month of MA eligibility that could have been sought by Petitioner was November 2016 (MDHHS allows clients to apply for up to 3 retroactive months for MA benefits). Thus, MDHHS' processing delay cost Petitioner several potential months of MA eligibility.

This consideration cannot directly justify ordering MDHHS to accept Petitioner's documents as timely received because equitable remedies are not authorized within the administrative hearing process. The consideration does justify imposing strict scrutiny to the denial of MA benefits. This consideration does not even factor the hypocrisy of MDHHS by failing to give Petitioner not one single day longer than MDHHS policy requires to return the requested questionnaire after taking several months to process an application.

MDHHS testimony conceded denial notices are not mailed until the end of business day. MDHHS testimony also conceded that the denial notice had not been mailed by the time Petitioner's AR submitted the requested questionnaire to MDHHS on January 31, 2017. MDHHS policy is routinely interpreted as allowing tardy document submissions if a denial notice had not been mailed. This policy interpretation justifies finding that Petitioner's submission was timely, because it was submitted before a denial notice was mailed. MDHHS also has a procedural flaw with their notice.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (July 2016), p. 2. A notice of case action must specify... the action(s) being taken by the department [and] the reason(s) for the action. *Id.*

The presented denial notice denied Petitioner's MA eligibility from December 2016. It is presumed the notice corresponded to Petitioner's application from the same benefit month. The notice failed to address Petitioner's potential eligibility from March 2016. MDHHS presented no evidence of a notice that corresponded to Petitioner's application from March 2016. Thus, it cannot be concluded that MDHHS issued a proper notice of denial for Petitioner's application from March 2016.

Whether the denial of Petitioner's MA eligibility from March 2016 is reversed due to a finding that MDHHS issued improper notice or that Petitioner's submission was timely is of no matter; reinstatement of Petitioner's application from March 2016 is an appropriate resolution of either procedural failure.

MDHHS possesses a validly-completed Health Care Coverage Determination Notice. MDHHS will be ordered to re-register Petitioner's application from March 2016 and process Petitioner's eligibility using Petitioner's already submitted questionnaire.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for MA benefits. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Re-register Petitioner's application dated [REDACTED]; and
- (2) Process Petitioner's MA eligibility subject to the findings that Petitioner timely submitted a Health Care Coverage Supplemental Questionnaire.

The actions taken by MDHHS are **REVERSED**.

CG/hw



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**Christian Gardocki**

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]

**Authorized Hearing Rep.**

[REDACTED]

**Petitioner**

[REDACTED]