



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

██████████
██████████
██████████

Date Mailed: August 18, 2017
MAHS Docket No.: 17-006801
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 ██████████, from Detroit, Michigan. The Petitioner was not present but was represented by ██████████ ██████████ ██████████ Petitioner's Authorized Representative (AR). The Department of Health and Human Services (Department) was represented by ██████████, Hearing Facilitator.

ISSUE

Did the Department properly provide Petitioner's AR with notice of its decision relating to Petitioner's ██████████ application?

FINDINGS OF FACT

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

1. In ██████████, Petitioner applied for Medical Assistance (MA) benefits relating to the Medicare Saving Program (MSP).
2. On ██████████, the Department sent Petitioner a Health Care Coverage Determination Notice which indicated that Petitioner was eligible for MA coverage effective ██████████.
3. On ██████████, the Department sent Petitioner a Health Care Coverage Determination Notice which indicated that Petitioner was eligible for full coverage MA from ██████████, but indicated that Petitioner is ineligible for Medicare Cost Share Program.
4. In ██████████, ██████████ became Petitioner's AR.

5. Petitioner's AR made repeated inquires as to the status of Petitioner's [REDACTED] application.
6. The Department continued correspondence with Petitioner's AR relating to the [REDACTED] application; and on [REDACTED], it sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that she was not eligible for the Medicare Savings Program.
7. The Department did not send Petitioner's AR the [REDACTED], Health Care Coverage Determination Notice.
8. On [REDACTED], Petitioner's AR filed a Request for Hearing alleging that the Department failed to provide it notice of the decision relating to Petitioner's [REDACTED] application.

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 this case, Petitioner's AR filed a Request for Hearing seeking to receive the Health Care Coverage Determination Notice relating to Petitioner's [REDACTED] application. Petitioner's AR argued that because it did not receive notice of the Department's decision, Petitioner lost her ability to timely review and appeal the decision. At the time of the application, Petitioner did not have an AR. On [REDACTED] the Department sent Petitioner a Health Care Coverage Determination Notice which indicated that Petitioner was eligible for MA coverage effective [REDACTED]. However, the [REDACTED], Health Care Coverage Determination Notice did not address any retroactive coverage. On [REDACTED], the Department sent Petitioner a second Health Care Coverage Determination Notice which indicated that Petitioner was eligible for full coverage MA from [REDACTED] [REDACTED] [REDACTED], but indicated that Petitioner is ineligible for the Medicare Cost Share Program.

In [REDACTED], documentation was submitted to the Department indicated that [REDACTED] was to serve as Petitioner's AR. On [REDACTED], Petitioner's AR

began corresponding electronically with the Department. A review of the emails reveals that the Department seemed to be unaware that the [REDACTED], and [REDACTED], Health Care Coverage Determination Notice had already been sent to Petitioner. The Department indicated on several occasions that Petitioner was likely over the income limit for the Medicare Savings Program but continuously told [REDACTED] that it would provide further information. The email exchange continued through [REDACTED].

On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice which informed Petitioner that she was not eligible for the Medicare Savings Program. However, the Department acknowledges that it did not send the [REDACTED], notice to Petitioner's AR. The Department could not provide an explanation as to why the [REDACTED], Health Care Coverage Determination Notice was sent as there was no activity between the [REDACTED], notice and the [REDACTED], notice. Had the Department sent Petitioner's AR the [REDACTED], or [REDACTED] notices at the inception of [REDACTED] representation, Petitioner's AR could have filed a timely appeal to the notices. As such, it is found that the Department failed to provide Petitioner's AR with notice of its decision regarding Petitioner's [REDACTED] application.

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 provide Petitioner's AR with notice of its decision regarding Petitioner's [REDACTED] application for MA benefits.

DECISION AND ORDER

Accordingly, the Department's 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. Reregister and reprocess Petitioner's [REDACTED] application for MA benefits;
2. Issue any supplements Petitioner was eligible to receive but did not effective [REDACTED]; and
3. Notify Petitioner and her AR of its decision in writing.

JAM/tif



Jacquelyn A. McClinton
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

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]