



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 26, 2017
MAHS Docket No.: 17-010141
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 September 18, 2017, from [REDACTED], Michigan. The Petitioner was represented by [REDACTED], Business Manager, [REDACTED] and [REDACTED], District Support, [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by [REDACTED], Eligibility Specialist.

Respondent's Exhibit pages 1-76 were admitted as evidence.

ISSUE

Did the Department properly determine that Petitioner's Medical Assistance (MA) should begin October 2016?

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 was a Medical Assistance benefit recipient.
2. On [REDACTED], the Social Security Administration suspended Petitioner's Social Security benefit eligibility because his check was returned to the social security office.

3. On [REDACTED], the Department received the notice from the Social Security Administration.
4. On [REDACTED], the Department received an application for Medical Assistance for Petitioner.
5. On [REDACTED] a verification checklist was sent out Petitioner, requesting a health insurance card, verification that Petitioner was pursuing Social Security benefits.
6. On [REDACTED], MA was denied for [REDACTED], ongoing because verifications were not received by the Department.
7. The Social Security Administration determined that Petitioner was deceased effective February 2016 and suspended his monthly SSI payments.
8. On [REDACTED] [REDACTED] [REDACTED], the Department received an application for MA from Petitioner's Representative.
9. On [REDACTED], the Department sent Petitioner a Health Care coverage Determination Notice with opened a Medical Assistance case for Petitioner form [REDACTED], forward.
10. On [REDACTED], the Michigan Administrative Hearings System received a Request for Hearing to contest the date of eligibility and to request that eligibility begin [REDACTED].

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are contained in the following Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
 - Reduction in the amount of program benefits or service.
 - Suspension or termination of program benefits or service.
 - Restrictions under which benefits or services are provided.
 - Delay of any action beyond standards of promptness.
 - For FAP only, the current level of benefits or denial of expedited service.
- Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2017), pp 3-4.

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, page 6

In this case, the evidence indicates that Petitioner is bed bound. Petitioner has had a Legal Guardian since 1977 (his mother). Petitioner has been a resident of [REDACTED] skilled nursing home ([REDACTED]) since [REDACTED]. Before coming to [REDACTED], he was at an Adult Foster Care (AFC) home which was also his representative payee for his social security benefits. When Petitioner moved to [REDACTED], the AFC home returned his social security checks to the social security office. Social Security deemed Petitioner as expired (deceased) effective February 2016. Medicaid was denied. [REDACTED] sent a letter to Social Security and applied as a representative payee. Petitioner was approved for his social security benefits (RSDI) and was reinstated back to [REDACTED]. [REDACTED] then applied for Medicaid in January 2017 through the Department with a retro-active Medicaid application seeking benefits to January 2016. The Department opened a Medicaid case for Petitioner from October 2016. Heritage had field applications for Petitioner on [REDACTED], [REDACTED], and [REDACTED], but were denied both times.

The verification checklist sent to Petitioner at [REDACTED], [REDACTED], indicates that the Department had received verification that the Social Security Administration stopped payments until they could determine why benefit payment was returned. It was not possible for Petitioner to provide the verification information before the Social Security circumstances were corrected. Without Social

Security Administration determination that Petitioner was alive and had Social Security eligibility, Petitioner was not eligible to receive Medicaid benefits under any circumstances.

Pertinent Department policy at BAM 130, page 1 states:

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Obtain verification when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement must be applied the same for every client. Local requirements may not be imposed for Medicaid Assistance (MA).
- **Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.** (Emphasis added)

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level.

If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, **offer** to assist the individual in the gathering of such information. Petitioner is disabled and has had a Guardian since 1977. This Administrative Law Judge finds that the two prior applications were denied because Petitioner failed to provide the requested verification information. The verification information could not be provided to the Department because the Social Security Administration had deemed Petitioner deceased. Once the Social Security Administration corrected its error, Petitioner became eligible for Medicaid.

On [REDACTED], the Social Security Administration notified [REDACTED] that a correction in the Social Security records was made for Petitioner. This Administrative Law Judge finds that Petitioner's Representative was in constant contact with the Department. Petitioner should not be penalized because the Social Security Administration determined him to be deceased in error and made it impossible for the caregivers to provide the appropriate information.

The Bridges Policy Glossary defines **good cause** as a circumstance which is considered a valid reason for not complying with a requirement. Petitioner has established good cause for failure to provide verification information on the [REDACTED], [REDACTED], and the [REDACTED] applications. Though there was no request for a hearing filed in either application, both the Department and Petitioner's Representative were continually attempting to get the Social Security Administration to correct the error and re-determine that Petitioner was alive. It would have been impossible for Petitioner to be considered for Medicaid because he was inaccurately determined to be deceased. The

Department had actual notice that the Social Security Administration had declared Petitioner to be deceased and that the Social Security Administration's determination was in error. The caseworker was working in conjunction with the Petitioner's caregiver to correct the error.

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 failed to act in accordance with Department policy when it did not determine Petitioner's eligibility for Medical Assistance benefits to [REDACTED], once it was notified by the social Security Administration that an error had been made and corrected. The Department's decision to deny the [REDACTED], application and the [REDACTED], application for Medical Assistance must be reversed under the circumstances.

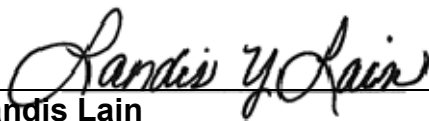
DECISION AND ORDER

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. Reinstate Petitioner's [REDACTED], and [REDACTED], application for Medical Assistance Benefits and determine Petitioner's eligibility for Medicaid for the months of January 2016 through September 2016.
2. If Petitioner is otherwise eligible, pay Petitioner's medical bills in accordance with Medicaid policy.

LL/hb



Landis Lain
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]