



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 7, 2017  
MAHS Docket No.: 17-005242  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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; 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 Detroit, Michigan. The Petitioner was represented by [REDACTED], Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for retroactive Medical Savings Program (MSP) coverage?

### **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 a recipient of MSP coverage.
2. Petitioner applied for retroactive Medical Assistance (MA) coverage on October 27, 2016.
3. In her application for MA benefits, Petitioner requested MSP coverage.
4. On November 22, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that had been approved for MSP benefits effective October 1, 2016.

5. The Department failed to send the November 22, 2016 Health Care Coverage Determination Notice to Petitioner's AHR.
6. On April 11, 2017, Petitioner's AHR filed a Request for Hearing disputing the Department's actions.

### **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.

An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (for example, to obtain FAP benefits for the group). BAM 110 (July 2016), p. 9. Petitioner's AHR submitted the application and noted that she was the AR on the case. It should be noted that the negative action was sent to Petitioner on November 22, 2016. However, Petitioner's AHR testified that the negative action was not sent to her attention. The Department was unable to dispute that the negative action was sent to Petitioner's AHR. Therefore, the undersigned finds that jurisdiction exists as the AHR filed a Request for Hearing upon learning of the negative action.

Petitioner submitted a standard MA application and an application for retroactive MA benefits. The Department confirmed that in the standard application, Petitioner requested to be considered for benefits with the MSP. The Department testified that when a retroactive application is submitted, the client is automatically considered for MSP benefits if they requested same in a standard application.

On November 22, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that she had been approved for Additional Low-Income Medicare Beneficiaries (ALMB) benefits effective October 1, 2016. ALMB are benefits included in MSP coverage. Petitioner's AHR testified that Petitioner sought to have MSP coverage effective retroactively to July 1, 2016. Under Department policy, ALMB coverage is available for retro MA months and later months; however, not for time in a previous calendar year BEM 165 (October 2016), p. 4.

Department policy provides the following example: Application was made December 27, 2015. Eligibility was determined on January 3, 2016. ALMB **cannot** be approved for any time before January 1, 2016. As such, the calendar year begins on January 1, 2016. Given that Petitioner was seeking retroactive coverage for the 2016 calendar year, the request for MSP benefits should have been approved.

### **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 provide Medical Savings Program coverage effective July 1, 2016.

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. Redetermine Petitioner's eligibility for Medical Savings Program benefits effective July 2016 based upon the October 27, 2016 retroactive application for MA benefits;
2. Issue Medical Savings Program supplements Petitioner was eligible to receive but did not relating to the October 27, 2016 retroactive application for MA benefits; and
3. Notify Petitioner and her AHR of its decision in writing.

JM/hw



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**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

**DHHS**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]