



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: October 1, 2018
MAHS Docket No.: 18-007583
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 27, 2018, from Lansing, Michigan. [REDACTED] [REDACTED] Authorized Representative for Petitioner, appeared and represented Petitioner. Pamela Herman, Hearing Facilitator, appeared and represented the Department. Neither party had any additional witnesses.

ISSUE

Did the Department properly process 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], 2018, Petitioner's authorized representative faxed an application for MA for Petitioner to the Department at 517-346-9888.
2. Petitioner's authorized representative did not receive a response regarding Petitioner's application. Petitioner's authorized representative attempted to follow up on the status of the application in June and July.
3. On July 18, 2018, Petitioner's authorized representative mailed a letter to request a hearing because Petitioner's application for MA had not been processed in a timely manner.
4. On July 27, 2018, the Department advised Petitioner's authorized representative that it had not received Petitioner's application. Petitioner's authorized

representative resubmitted the application to the Department, and the Department received it.

5. The Department approved Petitioner for MA effective April 2018 and Medicare Cost Savings effective August 2018.

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 general, the Department must approve or deny an application for MA within 45 days of the date it received the application. BAM 115 (January 1, 2018), p. 17. The date of application (for a paper application) is the date the Department receives the required minimum information on an application. BAM 110 (April 1, 2018), p. 5. Medicare Savings Program coverage for Qualified Medicare Beneficiaries (QMB) begins the calendar month after an eligibility determination is made on an application. BEM 165 (January 1, 2018), p. 1. Retroactive Medicare Savings Program coverage is not available for a QMB. BEM 165, p. 1.

Here, Petitioner's authorized representative asserts that the Department received Petitioner's application on [REDACTED], 2018, when it successfully faxed the application to the Department. Petitioner's authorized representative asserts the Department failed to process Petitioner's application within 45 days thereafter and failed to use the correct application date of [REDACTED], 2018. Petitioner's authorized representative asserts that had the Department processed Petitioner's application submitted on [REDACTED], 2018, then Petitioner would have been eligible for Medicare Savings Program effective June 2018. Thus, Petitioner's authorized representative asserts that the Department's failure to process Petitioner's [REDACTED], 2018, application caused Petitioner to have a later Medicare Savings Program effective date. The Department asserts that it did not receive Petitioner's application until [REDACTED] 2018 and that it cannot make Medicare Savings Program effective retroactively from the date an application is received.

I find that the Petitioner's authorized representative has presented sufficient evidence to establish that the Department did not act in accordance with its policies and the applicable law. Although the Department denied receiving the application, Petitioner's


authorized representative presented sufficient evidence to establish that it successfully faxed an application. Petitioner's authorized representative faxed Petitioner's MA application on [REDACTED], 2018, but the Department did not process it within 45 days as required by policy and the Department did not use [REDACTED], 2018, as the application date. The Department's actions were contrary to its policies and the applicable law, and the Department's actions caused Petitioner to have a later Medicare Savings Program effective date than she would have had if the Department would have used [REDACTED], 2018, as her application date.

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 its policies and the applicable law when it failed to process Petitioner's MA application with an application date of [REDACTED], 2018.

IT IS ORDERED the Department shall reprocess Petitioner's MA application with the correct application date.

JK/nr



Jeffrey Kemm
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) 763-0155; 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

Carisa Drake
190 East Michigan
Battle Creek, MI
49016

Calhoun County DHHS- via electronic mail

BSC3- via electronic mail

M. Best- via electronic mail

EQAD- via electronic mail

Authorized Hearing Rep.

[REDACTED]
[REDACTED], FL
[REDACTED]

Petitioner

[REDACTED]
[REDACTED], MI
[REDACTED]