



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: July 31, 2017  
MAHS Docket No.: 17-007624  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric J. Feldman**

### **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 27, 2017, from Detroit, Michigan. Petitioner was present for the hearing and represented himself. Also, Petitioner's spouse, [REDACTED] was present for the hearing. The Department of Health and Human Services (Department) was represented by Dionere Craft, Hearings Facilitator; and Kimberly Heard, Eligibility Specialist. Sumeya Thabet served as translator during the hearing.

### **ISSUE**

Did the Department properly process Petitioner's spouse, [REDACTED], eligibility for Medical Assistance (MA) coverage during the periods of March 2016, to February 2017?

### **FINDINGS OF FACT**

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

1. The spouse is a permanent resident alien since April 2, 2013. [Exhibit A, p. 10.]
2. The spouse was pregnant with Child A during the period of March 2016 to December 2016.
3. In August of 2016, the Department received verification that the spouse was pregnant.

4. On August 15, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that his spouse received full MA coverage from October 1, 2015, to March 31, 2016; April 1, 2016, to June 30, 2016; and July 1, 2016, to June 30, 2017. [Exhibit B, pp. 1-2.]
5. On [REDACTED] 2016, Petitioner gave birth to Child A.
6. The Department's Medicaid Eligibility shows that she received full MA coverage from March 2016 to May 2016; Emergency Services Only (ESO) coverage from June 2016 to July 2016; full MA coverage from August 2016 to January 2017; and ESO coverage from February 2017, ongoing. [Exhibit B, pp. 3-5.]
7. On May 30, 2017, Petitioner filed a hearing request, protesting the Department's failure to process her coverage for MA benefits. [Exhibit A, pp. 2-3.]

### **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 argued that his spouse was a permanent resident alien since April 2, 2013; and she received ESO coverage. However, the hearing request stated that she was pregnant; and he provided proof to the Department to update her coverage until she delivered the baby. [Exhibit A, p. 3.] However, the hearing request stated that he attempted many times to update her coverage; but the Department refused due to her immigration status. [Exhibit A, p. 3.] The hearing request stated that finally his spouse was approved for the Maternity Outpatient Medical Services (MOMS) program. [Exhibit A, p. 3.] Petitioner argued that the spouse, despite her status as a permanent resident alien, would be eligible for the MOMS program because of her pregnancy. See BEM 657 (June 2015 and July 2016), p. 1, (MOMS provides prenatal and postpartum outpatient pregnancy-related services to women who are pregnant or recently pregnant and are eligible for Medicaid ESO). However, Petitioner argued that he is now receiving medical bills during the period his spouse was pregnant and that the Department failed to provide the MOMS coverage during her pregnancy period in order to pay for the outstanding medical bills.

In response, the Department did not dispute that the spouse was eligible for MOMS coverage during her pregnancy. In August of 2016, the Department received verification that the spouse was pregnant. On August 15, 2016, the Department sent Petitioner a determination notice notifying him that his spouse received full MA coverage during her pregnancy of March 2016 to December 2016. [Exhibit B, pp. 1-2.] During the hearing, the Department indicated that she received full-MA coverage during the pregnancy period. [Exhibit B, pp. 3-5.] As such, the Department argued that Petitioner's hearing issue has been resolved because the Department provided his spouse with full MA coverage during the pregnancy period and that the outstanding medical bills have to be resubmitted.

The undersigned reviewed the determination notice dated August 15, 2016, and it does state that the spouse was approved for full MA coverage during the pregnancy period. [Exhibit B, p. 1.] However, the Department also presented a Medicaid Eligibility, which showed that she *did not* receive full MA coverage during the entire pregnancy period. Specifically, the Medicaid Eligibility showed that she received ESO coverage from June 2016 to July 2016, and from February 2017, ongoing. [Exhibit B, pp. 3-5.] Thus, the Department presented contradictory information because one document shows she is receiving full MA coverage during the pregnancy period and another document does not.

Maternity Outpatient Medical Services (MOMS) is a health coverage program operated by the Department of Health and Human Services (DHHS). BEM 657, p. 1. MOMS provides prenatal and postpartum outpatient pregnancy-related services to women who are pregnant or recently pregnant and are eligible for Medicaid ESO. BEM 657, p. 1. Pregnant or recently pregnant Medicaid ESO beneficiaries receive prenatal care along with medically necessary ambulatory postpartum care for 60 days after the pregnancy ends regardless of the reason. BEM 657, p. 1.

Women who are pregnant or within two calendar months following the month pregnancy ended and are:

- Eligible for Medicaid emergency services only.
- Applicants for Medicaid whose income, after deductions, appears to be at or below 195 percent of the federal poverty level.

BEM 657, p. 1.

The Medical Services Administration (MSA) is responsible for verifying eligibility and establishing the coverage period. BEM 657, p. 2. The individual must be a Michigan resident and verification of pregnancy is not required. BEM 657, p. 2. There is no asset test. BEM 657, p. 2. The group is the same as the Modified Adjusted Gross Income (MAGI) related groups. BEM 657, p. 2. Fiscal group income must be at or below 195 % of the poverty level. BEM 657, p. 2. Verification of income is not necessary unless the individual's statement is inadequate or questionable. BEM 657, p. 2.

Based on the foregoing information and evidence, the undersigned finds the following: (i) the Department properly determined the spouse's eligibility for MA coverage during the periods of March 2016 to May 2016, and August 2016 to January 2017; and (ii) the Department did not properly determine the spouse's eligibility for MA coverage during the periods of June 2016 to July 2016, and February 2017. See BEM 657, pp. 1-2.

First, the Department provided credible evidence showing that the spouse received full MA coverage during the periods of March 2016 to May 2016, and August 2016 to January 2017. [Exhibit B, pp. 3-5.] Again, the spouse was pregnant during the periods of March 2016 to December 2016. The evidence established that the spouse did receive full MA coverage during a period of her pregnancy, which was from March 2016 to May 2016, and August 2016 to December 2016. Furthermore, the undersigned reviewed the benefit month of January 2017 because according to the MOMS policy, Petitioner would also be eligible for coverage 60 days after the pregnancy ends regardless of the reason. See BEM 657, p. 1. Because Child A was born in December 2016, this meant the spouse would be eligible for coverage following two months after the pregnancy ended, which was January 2017 and February 2017. Thus, the undersigned also found that the Department properly provided her with full MA coverage for January 2017. As such, the Department properly determined the spouse's MA eligibility for March 2016 to May 2016, and August 2016 to January 2017.

Second, the Department did not properly determine the spouse's eligibility for MA coverage during the periods of June 2016 to July 2016, and February 2017. As stated above, the spouse was pregnant during the periods of March 2016 to December 2016; however, the Department failed to provide her full MA coverage during the periods of June 2016 to July 2016, which fell within her pregnancy period. [Exhibit B, p. 4.] Also, the Department failed to provide her full MA coverage for February 2017 because this month occurred within 60 days after her pregnancy ends. See BEM 657, p. 1. As such, the Department improperly determined the spouse's MA eligibility for June 2016 to July 2016, and February 2017.

### **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 (i) the Department properly determined the spouse's eligibility for MA coverage during the periods of March 2016 to May 2016, and August 2016 to January 2017; and (ii) the Department did not properly determine the spouse's eligibility for MA coverage during the periods of June 2016 to July 2016, and February 2017.

Accordingly, the Department's MA decision is **AFFIRMED IN PART** with respect to March 2016 to May 2016, and August 2016 to January 2017 and **REVERSED IN PART** with respect to June 2016 to July 2016, and February 2017.

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 the spouse's MA eligibility, including her eligibility for the MOMS program, for June 1, 2016, to July 31, 2016; and February 1, 2017, to February 28, 2017;
2. Issue supplements to the spouse for any MA benefits she was eligible to receive but did not from June 1, 2016, to July 31, 2016; and February 1, 2017, to February 28, 2017; and
3. Notify Petitioner/spouse of its decision.

EJF/jaf



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**Eric J. Feldman**  
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**

Wayne (55)

**Petitioner**

[REDACTED]  
MI

BSC4  
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