



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 27, 2017
MAHS Docket No.: 17-014873
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 (ALJ) 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 December 18, 2017, from Lansing, Michigan. Petitioner was represented by the Authorized Hearing Representative (AHR), [REDACTED], from [REDACTED]. The Department of Health and Human Services (Department) was represented by Chantel Wilbon, Hearings Facilitator.

ISSUE

Did the Department improperly deny Petitioner's retroactive Medical Assistance (MA) application for the period of August 1, 2011, to August 31, 2011?

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 63-years-old (date of birth: [REDACTED], 1954) and she is disabled. [Exhibit B, pp. 1-5 and Exhibit 1, p. 1.]
2. Petitioner was hospitalized in August 2011.
3. On December 17, 2012, the Social Security Administration (SSA) sent Petitioner a Supplemental Security Income (SSI) Notice of Award letter that stated she has meet the medical requirements to receive SSI. [Exhibit 1, p. 1.]

4. Petitioner's State On-line Query (SOLQ) showed a disability onset date of May 5, 2011, and that she was approved for SSI beginning September 1, 2011. [Exhibit B, pp. 1-5.]
5. On August 1, 2017, the AHR submitted a DHS-3243, Retroactive Medicaid Application, for the month of August 2011. [Exhibit A, pp. 3-5.]
6. On October 24, 2017, the Department sent Petitioner a Benefit Notice notifying her that her retroactive MA application for August of 2011, was denied for the following reason:

Retroactive Medicaid was not requested timely. Per policy clarification, the only time we would determine eligibility for a month six years in the past is due to a lawsuit. We would require a court order that compels the department to do so.

[Exhibit A, pp. 8-9.]

7. On November 7, 2017, the AHR filed a hearing request, protesting the Department's action. [Exhibit A, pp. 11-13.]

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 the present case, the Department denied Petitioner's retroactive MA application because the application was not requested timely. After the application was submitted, the caseworker sent an e-mail to the Department's SSI unit on August 21, 2017, requesting assistance with the application. [Exhibit A, pp. 2 and 6-7.] On October 12, 2017, the SSI unit responded via e-mail and stated that Petitioner was not eligible for SSI for the month of August 2011, and to determine eligibility for other types of Medicaid. [Exhibit A, pp. 2 and 6.] As such, on October 12, 2017, the Assistant Payments Supervisor sent the Department's Eligibility Policy unit an e-mail to see if Petitioner is eligible for other types of Medicaid. [Exhibit A, p. 10.] On October 12, 2017, the Department's Eligibility Policy unit stated that the only time the

Department would determine eligibility for a month six years in the past is due to a lawsuit and it would require a court order compelling it to do so. [Exhibit A, p. 10.] As a result, on October 24, 2017, the Department sent Petitioner a Benefit Notice notifying her that her retroactive MA application for August 2011 was denied. [Exhibit A, pp. 8-9.]

In response, the AHR argued that per Department policy, it was allowed to submit the retroactive MA application. The AHR argued that nowhere in policy does it state that a lawsuit and/or court order would be required to submit a retroactive MA application from August of 2011. The undersigned ALJ agrees with the AHR's argument

SSI is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. BEM 150 (April 2017), p. 1. The Social Security Administration (SSA) determines SSI eligibility. BEM 150, p. 1.

In Michigan, the Department supplements federal SSI payments based on the client's living arrangement. BEM 150, p. 1. Thus, in this item SSI recipient means a Michigan resident who receives the basic federal payment, the state supplement, or both. BEM 150, p. 1. To be automatically eligible for Medicaid (MA) an SSI recipient must both: be a Michigan resident and cooperate with third-party resource liability requirements. BEM 150, p. 1. The Department administers MA for SSI recipients, including a continued MA eligibility determination when SSI benefits end. BEM 150, p. 1.

Ongoing MA eligibility begins the first day of the month of SSI entitlement. BEM 150, p. 1. Some clients also qualify for retroactive (retro) MA coverage for up to three calendar months prior to SSI entitlement; see BAM 115. BEM 150, p. 1.

The DHS-3243, Retroactive Medicaid Application, is used along with the DHS-4574 or DCH-1426 for retro MA applications. BAM 110 (January 2017), p. 4. Only one DHS-3243 is needed to apply for one, two or three retro MA months. BAM 110, p. 4.

Retro MA coverage is available back to the first day of the third calendar month prior to for SSI, entitlement to SSI. BAM 115 (October 2017), pp. 11-12. The Department determines eligibility for each retro MA month separately. BAM 115, p. 14. To be eligible for a retro MA month, the person must: meet all financial and nonfinancial eligibility factors in that month, and have an unpaid medical expense incurred during the month, or have been entitled to Medicare Part A. BAM 115, p. 14.

Verification sources for current receipt of SSI include a copy of a current SSI aware letter from SSA, DHS-3471, DHS/SSA Referral, Contact with SSA, or SOLQ. BEM 150, p. 9.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it improperly denied Petitioner's retroactive MA application for August 1, 2011, to August 31, 2011. The undersigned reviewed policy and determined there is no time limitation when an individual can apply for

retroactive MA application upon learning of their SSI approval. BAM 115 and BEM 150 clearly state that a retroactive MA application can be filed for three months prior to the SSI approval. BAM 115, p. 11 and BEM 150, p. 1. The evidence established that Petitioner was found to be disabled in May of 2011, and she was eligible for SSI benefits beginning September 1, 2011. [Exhibit B, pp. 1-5.] As a result of Petitioner's entitlement to SSI beginning on September 1, 2011, policy allows her to submit a retroactive MA application for the prior three months. BAM 115, p. 11 and BEM 150, p. 1. In this case, though, on August 1, 2017, the AHR submitted a retroactive MA application for only the month of August 2011. [Exhibit A, pp. 3-5.] Therefore, the Department should have not denied Petitioner's MA application on the basis that her retroactive MA application was not submitted timely. [Exhibit A, pp. 8-9.]

Accordingly, the Department is ordered to re-register and reprocess Petitioner's retroactive MA application for the period of August 1, 2011, to August 31, 2011, in accordance with Department policy.

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 improperly denied Petitioner's retroactive MA application for August 1, 2011, to August 31, 2011.

Accordingly, the Department's MA 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. Initiate re-registration and reprocessing of Petitioner's retroactive MA application for the period of August 1, 2011, to August 31, 2011;
2. Issue supplement to Petitioner for any MA benefits she was eligible to receive but did not from August 1, 2011, to August 31, 2011; and
3. Notify Petitioner and AHR of its decision.

EF/bb



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

Mark Epps
4809 Clio Road
Flint, MI 48504

Genesee County (District 6), DHHS

BSC2 via electronic mail

M. Best via electronic mail

EQADHS via electronic mail

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]