



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

Date Mailed: December 28, 2018  
MAHS Docket No.: 18-010815  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** John Markey

### **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 December 6, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. Also appearing on behalf of Petitioner was Petitioner's husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Nati Campos, Family Independence Manager. During the hearing, an 18-page packet of documents was offered and admitted as Exhibit A, pp. 1-18.

### **ISSUES**

Did Petitioner submit a timely request for hearing that would enable the Administrative Law Judge (ALJ) to exercise jurisdiction over this matter?

If so, did the Department follow law and Department policy when determining Petitioner's eligibility for Medicaid (MA) 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 was an ongoing MA beneficiary.
2. On January 9, 2017, the Department issued to Petitioner a Verification Checklist (VCL) requiring Petitioner to provide the Department with proof of all household income. The VCL informed Petitioner that proofs were due by January 17, 2017

and that failure to provide the required proofs would result in negative action being taken with respect to Petitioner's MA benefits case. Exhibit A, pp. 10-11.

3. On February 10, 2017, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that Petitioner's MA benefits case was closing effective March 1, 2017, as a result of Petitioner's failure to return the proofs requested in the January 9, 2017, VCL. Exhibit A, pp. 12-14.
4. On March 7, 2017, Petitioner required medical services, including a blood draw. Prior to incurring the expense, Petitioner and the medical service provider confirmed on a database that Petitioner had active MA coverage. Apparently, the database was out of date as Petitioner's coverage expired about one week prior.
5. Had the database not reflected current MA coverage, the medical service provider's policy would have required Petitioner to either pre-pay or refuse the services. Petitioner credibly testified that the expenses would have been avoided.
6. As a result of Petitioner's reliance upon the database's out of date information, Petitioner incurred an otherwise avoidable medical expense for which Petitioner is being directly billed by the medical service provider. The record includes a bill dated August 29, 2018, showing a balance of \$852 for expenses incurred on March 7, 2017. Exhibit A, p. 6.
7. On October 15, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of the MA benefits case and refusal to pay the bill for expenses incurred on March 7, 2017.

### **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.

On October 15, 2018, Petitioner filed a hearing request objecting to the Department's closure of Petitioner's MA benefits case and refusal to pay a medical expense Petitioner incurred about one week after the MA benefits case was closed. Petitioner was notified

of the case closure on February 10, 2017, the case closure occurred on March 1, 2017, and the medical expenses were incurred on March 7, 2017.

Clients have the right to a hearing to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. Upon receiving a request for hearing, the Department will forward the matter to the Michigan Administrative Hearing System (MAHS) for a hearing before an Administrative Law Judge (ALJ). The ALJ has jurisdiction to hear a case involving 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.  
BAM 600 (January 2018), p. 5.

However, the ALJ only has jurisdiction to hear a timely and properly submitted request for hearing. BAM 600 (January 2018), p. 6, provides in relevant part as follows:

The client or [authorized hearing representative] 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.

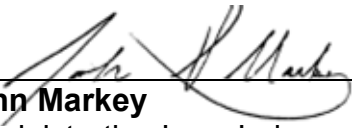
Petitioner requested a hearing on October 15, 2018, claiming that the closure of Petitioner's MA case and refusal to pay a medical expense incurred in March 2017 were not in accordance with relevant policy. Essentially, Petitioner's position is that the medical expense would have never been incurred had Petitioner not relied upon the Department's inaccurate database showing that Petitioner had MA coverage on March 7, 2017, when Petitioner was not in fact covered. Thus, by detrimentally relying upon the Department's allegedly faulty database, the Department should pay the bill.

The Notice of Case Action informing Petitioner of the Department's action was issued on February 10, 2017. Petitioner did not submit a hearing request to the Department within 90 days of February 10, 2017. Because Petitioner's hearing request was untimely, whether or not the Department properly closed Petitioner's MA benefits is not an issue that this ALJ has the authority to hear or issue a decision upon. Likewise, in addition to being untimely, Petitioner's position that the Department should be responsible for paying the expenses incurred on March 7, 2017, are equitable in nature. This ALJ lacks equitable power and does not have jurisdiction to craft equitable remedies based on principles like promissory estoppel. Since the issues raised by

Petitioner's request for a hearing fall outside the ALJ's jurisdiction, Petitioner's request for a hearing must be dismissed for lack of jurisdiction.

**THEREFORE, IT IS ORDERED** that Petitioner's October 15, 2018, request for hearing is dismissed for lack of jurisdiction.

JM/hb

  
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**John Markey**  
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**

Pam Farnsworth  
903 Telegraph  
Monroe, MI 48161

Monroe County, DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

**Petitioner**

