

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201116086

Issue No: 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 28, 2011

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on February 28, 2011.

ISSUE

Was the claimant's MA case properly terminated for failing to return a DHS-1010?

FINDINGS OF FACT

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

- (1) Client was a MA recipient in Macomb County.
- (2) On November 16, 2010, claimant's caseworker instructed Central Print in Lansing to send claimant a DHS-1010, Redetermination, with a due date of December 1, 2010.

- (3) Claimant never received this notice.
- (4) Claimant has had trouble receiving these types of notices in the past.
- (5) Claimant did not turn in the DHS-1010.
- (6) On December 17, 2010, claimant's MA case was placed into closure for a failure to return the DHS-1010.
- (7) On December 29, 2010, claimant filed a request for hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM) and Reference Tables (RFT).

MA recipients are required to return a DHS-1010 during a redetermination period, or face case closure. BAM 210.

In the current case, the Department contends that claimant did not return his DHS-1010, as required by policy.

Claimant contends that he did not receive the DHS-1010; therefore, he was unable to comply with the redetermination policy.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

However, at the hearing no evidence was given, beyond a printout of a correspondence history, that the redetermination forms were ever properly mailed or addressed. While the correspondence history was useful to determine that Department central records showed that the packet was recorded as mailed, it does nothing to show that the packet was properly addressed, or actually placed in the mail. The Department representative could not testify as to whether the packet had actually been mailed, as the packet was mailed from a central location in Lansing, and the representative was never involved in the process.

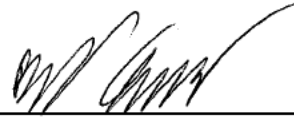
Furthermore, the Administrative Law Judge has determined that the claimant is credible, and thus finds his statement credible that he did not receive the forms in question. Furthermore, the claimant's demeanor, manner and testimony at the hearing painted a picture of credibility, and the undersigned, as the principal finder of fact, is willing to accept claimant's version of events. Claimant further testified that he has had difficulty in receiving other packets from Central Print. Therefore, for these reasons, the undersigned finds that claimant did not receive her DHS-1010; the Department should re-send these forms.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to place claimant's assistance case into closure was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

The Department is ORDERED to reinstate claimant's MA benefits retroactive to the date of negative action, and issue any supplemental benefits, retroactive to that date of negative action, to which the claimant is otherwise entitled.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 03/03/11

Date Mailed: 03/08/11

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

RJC/dj

cc:

