

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-17954

Issue No: 2006

[REDACTED]

Kent County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (also referred to as "the claimant") request for a hearing received on April 12, 2011. After due notice, a telephone hearing was held on July 12, 2011. The claimant personally appeared and provided testimony. At the hearing, the claimant was represented by attorney [REDACTED].

ISSUE

Did the department properly close the claimant's Medicaid or Medical Assistance (MA) benefits for failure to timely return the required verification?

FINDINGS OF FACT

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

1. The claimant was receiving MA benefits at all times pertinent to this hearing. (Department Exhibit 3).
2. On November 16, 2010, the department generated and mailed the claimant a Redetermination (DHS-1010) form to review the claimant's eligibility for MA benefits. (Department Exhibit 4). The due date for the claimant to return the completed Redetermination form was December 1, 2010. (Department Exhibit 4).
3. The department mailed the Redetermination form to claimant at her place of residence which was listed as [REDACTED]. (Department Exhibit 4).
4. On December 17, 2010, the department mailed the claimant a Notice of Case Action (DHS-1605) which denied MA benefits effective January 1,

2011. (Department Exhibits 1 & 2). The Notice of Case Action indicated that the department was unable to determine continued eligibility for MA benefits because the claimant failed to return the redetermination form. (Department Exhibits 1 & 2).

5. The Notice of Case Action was sent to the claimant at [REDACTED] (Department Exhibits 1 & 2).
6. On December 29, 2010, the department received the claimant's hearing request protesting the closure of her MA benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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

The MA program is also referred to as Medicaid. BEM 105. The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105. The Medicaid program is comprised of several sub-programs or categories. One category is for Financial Assistance Program (FIP) recipients. BEM 105. Another category is for Social Security (SSI) recipients. BEM 105. There are several additional categories for persons not receiving FIP or SSI, but the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. BEM 105. Therefore, these MA categories are referred to as either FIP-related or SSI-related. BEM 105.

To receive Medicaid or MA under an SSI-related category, the person must be 65 (sixty-five) years of age or older, blind, disabled, entitled to Medicare or formerly blind or disabled. BAM 105. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive Medicaid under FIP-related categories. BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Clients must take actions within their ability to obtain verifications and DHS staff must assist when necessary. BAM 105. Specifically, the local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105 and BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130.

In the instant case, the claimant does not dispute that she failed to return the Redetermination (DHS-1010) form on a timely basis. Rather, the claimant and her husband both allege they did not receive the DHS-1010 in the mail and that the department caseworker would not return their phone calls. This issue concerns the mailbox rule. Michigan follows the common law presumption that a letter mailed is presumed received by the addressee. 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). "Moreover, the fact that a letter was mailed with a return address but was not returned lends strength to the presumption that the letter was received." *Id* at 276. The law allows evidence of business custom or usage to establish the fact of mailing without further testimony by an employee of compliance with the custom. *Good, supra*.

Here, the claimant has not provided sufficient evidence that the department did not actually mail the DHS-1010 to the claimant. During the hearing, the department caseworker testified that the DHS-1010 form was generated and mailed to the claimant through the department's central print computer system. This is supported by the record evidence which shows that the DHS-1010 was generated by the department's computer system central print and was sent to the claimant on November 16, 2010. (Department Exhibit 4). The DHS-1010 form was sent to the claimant at her residence address at [REDACTED]." (Department Exhibit 4). The claimant does not dispute that she received the Notice of Case Action (DHS-1605), which denied her MA benefits, which was sent to the same address via the department's central computer system. The department has produced sufficient evidence of its business custom with respect to the mailing of the DHS-1010, allowing it to rely on this presumption. Moreover, the claimant has not come forward with sufficient evidence to rebut the presumption. In order to rebut the presumption of receipt, the claimant must provide some evidence more than simply allege that she did not receive the DHS-1010. The claimant failed to do so here.

Thus, this Administrative Law Judge finds there is sufficient evidence that the DHS-1010 was actually mailed to claimant which would invoke the presumption of receipt. Because the claimant did not return the DHS-1010 by the December 1, 2010 due date, the department properly closed her MA benefits.

Therefore, this Administrative Law Judge finds, based on the material and substantial evidence presented during the hearing, that the department properly closed the claimant's MA benefits for failure to timely submit the DHS-1010 form.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed the claimant's MA benefits for failure to timely turn in the requested redetermination form (DHS-1010).

Accordingly, the department's action is AFFIRMED.

It is SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: __7/20/11_____

Date Mailed: __7/20/11_____

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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

CAP/ds

■ [REDACTED]