

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


IN THE MATTER OF:



Reg. No: 201247536
Issue No: 2006
Case No: 114421556
Hearing Date: July 19, 2012
Clinton County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, an in-person hearing was held on Thursday, July 19, 2012. Claimant appeared and provided testimony on her behalf. Participants on behalf of the Department of Human Services (Department) included .

ISSUE

Was good cause established for non-compliance with timely eligibility redetermination requirements?

FINDINGS OF FACT

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

1. On April 16, 2012, the Department of Human Services (DHS) terminated the Claimant's MA-P (LTC) based on non-compliance with timely verification requirement per BEM 220, with a hearing request on April 16, 2012.
2. On February 16, 2012, the local DHS relied on Bridges for mail-out of a redetermination form to the Claimant's hearing representative with a due-date of April 1, 2012; it was not received by the local DHS.

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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Facts above are undisputed.

Good cause – A circumstance which is considered a valid reason for not complying with a requirement. BPG, Page 19.

It is the well settled law that where proof of proper mailing is shown, it will be presumed that the letter was received in the ordinary course of public mails. And when a party denies receipt, the only effect is to raise an issue of fact for the decision maker.

In this case, the presumption was not set-up because the local DHS did not introduce into evidence the documentary Bridges mail-out of the notice in question.

Therefore, this Administrative Law Judge (ALJ) finds the Hearing Representative's testimony more credible than the DHS conclusion that Bridges mailed out the notice in question; and that it was beyond the Hearing Representative's control to have timely complied with the redetermination request and, therefore, good cause.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides good cause was established for non-compliance with eligibility redetermination requirements..

Accordingly, MA-P (LTC) termination is **REVERSED** and the Department is ORDERED to initiate a re-determination Claimant's eligibility for MA-P retro to date of closure

/s/ _____
William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 21, 2012

Date Mailed: September 25, 2012

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.

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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.

WAS/tb

cc:

