

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20146434
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: November 20, 2013
County: Macomb

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

Following Claimant'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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 20, 2013, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Human Services (Department) included ES [REDACTED]. The Food Assistance Program (FAP) portion of this hearing is dismissed because no negative action has occurred to Claimant's Food Assistance Program (FAP) benefits.

ISSUE

Did the Department of Human Services properly close Claimant's Medical Assistance (MA) and Medicare Cost Share benefits because he failed to return a Redetermination Form (DHS-1010)?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of Medical Assistance (MA) and Medicare Cost Share benefits.
2. On August 13, 2013, Claimant was sent a Redetermination Form (DHS-1010) requesting information and verifications necessary to determine his ongoing eligibility. The required information and verifications were due on September 3, 2013.

3. On September 19, 2013, the Department had not received the required information and verifications. Claimant was sent a Notice of Case Action (DHS-1605) which stated his Medical Assistance (MA) and Medicare Cost Share benefits would end on October 1, 2013.
4. On October 17, 2013, Claimant filed a hearing request.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

During this hearing Claimant testified that he received the Redetermination Form (DHS-1010) and mailed it back in the self-addressed, stamped envelope sent with it. Claimant testified that he put in a Mail Box on Main Street a couple of days after receiving it. Claimant's testimony is found credible. 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).

ES [REDACTED] testimony that the Redetermination Form (DHS-1010) never got to her desk is also found credible. However, the line of demarcation is receipt of the form by the Department. There is no direct evidence in the record from the Department which rebuts the legal presumption established by Claimant's testimony.

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 closed Claimant's Medical Assistance (MA) and Medicare Cost Share benefits because he failed to return a Redetermination Form (DHS-1010).

DECISION AND ORDER

Accordingly, the Department's 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. Reinstate Claimant's re-determination of Medical Assistance (MA) and Medicare Cost Share eligibility.
2. Provide Claimant the opportunity to provide required information and verifications for the re-determination in accordance with Department policy.
3. Process Claimant's re-determination in accordance with Department policy.

/s/

Gary F. Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/27/2013

Date Mailed: 11/27/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) 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. MAHS 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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

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The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

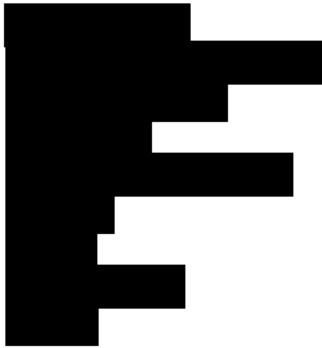
Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

GFH/sw

cc:

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