

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

IN THE MATTER OF:

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██████████
████████████████████

Reg. No.: 14-001310
Issue No.: 2003
Case No.: ██████████
Hearing Date: May 29, 2014
County: WAYNE-DISTRICT (76)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on May 29, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; Claimant's Authorized Hearing Representative (AHR) ██████████, ██████████; and Claimant's witness, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist; and ██████████ Assistant Payment Supervisor.

ISSUE

Did the Department properly close Claimant's Medicare Savings Program (MSP) benefits effective April 1, 2014, ongoing?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of MSP benefits.
2. On February 11, 2014, the Department sent Claimant a redetermination and it was due back by March 3, 2014. See Exhibit 1, p. 6.
3. Claimant did not receive the redetermination due to mailing issues.
4. The Department did not receive a completed redetermination by the due date or by the end of the benefit period (March 31, 2014).

5. On March 20, 2014, the Department sent Claimant a Notice of Case Action notifying her that her MSP benefits would close effective April 1, 2014, ongoing, due to her failure to submit a completed redetermination. See Exhibit 1, pp. 10-11.
6. On April 21, 2014, Claimant/Claimant's AHR filed a hearing request, protesting the MSP case closure. See Exhibit 1, pp. 3-4.

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), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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 (January 2014), p. 1. Medicaid is also known as Medical Assistance ("MA"). BEM 105, p. 1.

The Medicare Savings Programs are SSI-related MA Categories. BEM 165 (October 2013), p. 1. The three Medicare Savings Programs are Qualified Medicare Beneficiaries (also known as full-coverage QMB); Specified Low-Income Medicare Beneficiaries (also referred to as limited coverage QMB and SLMB); and Additional Low-Income Medicare Beneficiaries (also known as ALMB or Q1). BEM 165, p. 1.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2014), p. 7. This includes completion of necessary forms. BAM 105, p. 7.

A complete redetermination is required at least every 12 months. BAM 210 (October 2013), p. 1. For MA cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2.

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 10. When a complete packet is received, the Department records the receipt in its system as soon as administratively possible. BAM 210, p. 10. If the redetermination is

submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p. 10. For MA cases, benefits are not automatically terminated for failure to record receipt of the redetermination packet. BAM 210, p. 10.

In this case, Claimant was an ongoing recipient of MSP – QMB benefits. See Exhibit 1, p. 10. On February 11, 2014, the Department testified that it sent Claimant a redetermination and it was due back by March 3, 2014. See Exhibit 1, p. 6. The Department testified that the redetermination was sent via central print and it was not returned as undeliverable. Moreover, the Department testified that it did not receive a completed redetermination by the due date or by the end of the benefit period (March 31, 2014). Thus, on March 20, 2014, the Department sent Claimant a Notice of Case Action notifying her that her MSP – QMB benefits would close effective April 1, 2014, ongoing, due to her failure to submit a completed redetermination. See Exhibit 1, pp. 10-11.

At the hearing, Claimant's witness testified that they never received the redetermination dated February 11, 2014; however, acknowledged that they did receive the denial notice dated March 20, 2014. Claimant's witness testified that they do have issues in receiving their DHS correspondence. Claimant's witness testified that there is a similar address near the Claimant's residence. Moreover, Claimant's witness testified that they receive the other residence's correspondence as well. Claimant's witness also testified that they went to the local post office to report the issues on two previous occasions, with the latest occurring two months ago.

Additionally, upon receipt of the Notice of Case Action, on March 27, 2014, Claimant's AHR testified that she contacted the Department and left a voicemail. The Department testified that it could not recall receiving a phone call from the Claimant on March 27, 2014. The Department acknowledged subsequent calls, however, that was in regards to the Pre-Hearing Conference. See Exhibit 1, p. 2.

The proper mailing and addressing of a letter creates a presumption of receipt which 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).

Based on the foregoing information and evidence, the Department improperly closed Claimant's MSP case effective April 1, 2014, ongoing. It is found that Claimant rebutted the presumption of proper mailing. Claimant's witness credibly testified that the Claimant did not receive the redetermination dated February 11, 2014. The witness credibility is supported by the fact that he testified about ongoing issues in receiving DHS correspondence due to a similar address near their residence and also filing complaints with the local post office. Because Claimant rebutted the presumption of proper mailing, the Claimant never received the redetermination dated February 11, 2014.

For the reasons stated above, the Department did not act in accordance with Department policy when it improperly closed Claimant's MSP benefits effective April 1, 2014, ongoing. BAM 210, pp. 1-10.


DECISION AND ORDER

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 improperly closed Claimant's MSP benefits effective April 1, 2014.

Accordingly, the Department's MSP/MA 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 MSP case as of April 1, 2014;
2. Begin recalculating the MSP budget for April 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any MSP benefits she was eligible to receive but did not from April 1, 2014, ongoing; and
4. Notify Claimant in writing of its MSP decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/5/2014**

Date Mailed: **6/5/2014**

EJF/cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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.

The party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]