

**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.: 14-000772
Issue No.: 2003
Case No.: ██████████
Hearing Date: June 5, 2014
County: OAKLAND-DISTRICT (03)

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 telephone hearing was held on June 5, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; and Claimant's advocate/witness, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUE

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

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 July 16, 2013, the Department sent Claimant a redetermination, which was due back by August 1, 2013.
3. The Department did not receive a completed redetermination by the due date or by the end of the benefit period (August 31, 2013).
4. On July 30, 2013, the Department sent Claimant (to the improper address) a Verification Checklist (VCL) and it was due back by August 9, 2013. See Exhibit 1, p. 4.

5. On March 20, 2014, the Department sent Claimant a Notice of Case Action notifying him that his MSP benefits would close effective April 1, 2014, ongoing, due to his failure to submit a completed redetermination. See Exhibit 1, pp. 5-8.
6. On March 31, 2014, Claimant filed a hearing request, protesting the MSP case closure. See Exhibit 1, p. 3.

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 benefits. On July 16, 2013, the Department sent Claimant a redetermination, which was due back by August 1, 2013. The Department testified that it did not receive a completed redetermination by the due date or by the end of the benefit period (August 31, 2013).

At the hearing, the witness testified that Claimant never received the redetermination dated July 16, 2013. It should be noted that the redetermination was not provided as evidence. Nevertheless, it was discovered that the address located on the redetermination was sent to his previous address. However, the address located on the redetermination was the proper address at that time. Claimant testified that he moved and/or signed the lease to the new address on or around the end of July 2013. Moreover, the Department read the address located on the redetermination during the hearing and stated it was sent via central print.

Additionally, Claimant testified that he never reported to the Department his updated address. Claimant and the witness testified that he never reported the updated address due to his medical conditions and that he did not understand the reporting responsibilities. BAM 105 does state that clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105, p. 9. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 10. These include, but are not limited to, changes in address and shelter cost changes that result from the move. BAM 105, p. 10.

Also, at the same time Claimant alleged that he moved, on July 30, 2013 the Department sent Claimant a VCL and it was due back by August 9, 2013. See Exhibit 1, p. 4. Specifically, the VCL requested verification of his income/assets because it stated that his Supplemental Security Income (SSI) benefits were ending and review of his MA coverage is needed. See Exhibit 1, p. 5. The Department testified that the VCL was sent local print. Moreover, the VCL was supposed to go to the same address as the redetermination (proper address at the time); however, the VCL contained the improper apartment number. See Exhibit 1, p. 4. Therefore, it is reasonable to conclude that Claimant never received the VCL dated July 30, 2013. It should be noted that an application was also sent with the VCL. See Hearing Summary, Exhibit 1, p. 1.

Nevertheless, the Department testified that it did not receive the redetermination nor the VCL by the due dates. Thus, on March 20, 2014, the Department sent Claimant a Notice of Case Action notifying him that his MSP benefits would close effective April 1, 2014, ongoing, due to his failure to submit a completed redetermination. See Exhibit 1, pp. 5-8. At first, it was unclear why the denial notice was sent more than seven months after the due date, but it appeared to be based on the caseworker's overdue task item.

Finally, Claimant and his witness testified that they received all of the documentation via a hearing packet in March 2014 and that was addressed to him in handwriting to a P.O.

Box. A review of the evidence packet, though, does not indicate any P.O. Box; however, it appeared that it was obtained via the SOLQ (e.g., Social Security Administration (SSA)) containing such information. It was also unclear how Claimant testified he received all the documentation for the first time in the hearing packet because to receive such a packet, it would have meant that he received the denial notice and requested a hearing. See BAM 600 (March 2014), p. 21. In fact, Claimant's hearing request does reference the Notice of Case Action dated March 20, 2014, which was the denial notice for the MSP benefits. See Exhibit 1, pp. 3 and 5-8. Also, it appeared that the Department failed to continue Claimant's MSP benefits while waiting for the hearing decision. See BAM 600, p. 23. Claimant's hearing request was timely filed by the due date of March 31, 2014. See Exhibit 1, p. 8 and BAM 600, p. 23.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2014), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130, p. 3. For MA cases – verification deadlines for redeterminations, the Department allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. BAM 210, p. 14 and see also BAM 130, pp. 6-7. The Department gives timely notice of the negative action if the time limit is not met. BAM 210, p. 14.

Also, 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.

First, it is found that Claimant rebutted the presumption of proper mailing as to VCL request dated July 30, 2013. It does appear that the redetermination was sent to Claimant's proper address at the time. However, a review of the VCL request dated July 30, 2013, clearly indicated that it was not sent to the proper address due to the mistake in the apartment number. See Exhibit 1, p. 4. Thus, it is persuasive evidence that Claimant never received the verification request.

Second, the Department failed to send Claimant a proper VCL request as it was addressed improperly. The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department uses the DHS-3503, VCL, to request verification. BAM 130, p. 3. However, the Department failed to tell the client what verification is necessary due to the improper mailing. See BAM 130, p. 3. It is noted, though, that the denial notice is based upon the failure to submit a redetermination and that Claimant never updated his address and/or forwarding mail as required per policy. See BAM 105, pp. 9-10. However, the VCL was sent to the Claimant requesting verification. The Department failed to send Claimant the VCL to

the proper address and therefore, he was never aware of the additional documentation necessary to review his MA coverage. See Exhibit 1, p. 4. Therefore, the Department did not act in accordance with Department policy when it improperly closed Claimant's MSP benefits effective April 1, 2014, ongoing. BAM 130, p. 3 and BAM 210, pp. 1-14.

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 he 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: **6/12/2014**

Date Mailed: **6/12/2014**

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]
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