

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

IN THE MATTER OF:



Reg. No.: 20148301
Issue No.: 2003
Case No.:
Hearing Date: December 10, 2013
County: Livingston

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 December 10, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included (Eligibility Specialist) and (Manager).

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) and Medicare Savings Program (MSP) cases due to failure to properly return the redetermination form?

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 active for MA Group 2 Aged, Blind, Disabled (G2S) and Medicare Cost Share Program Additional Low-Income Medicare Beneficiaries (ALMB).
2. On August 13, 2013, the Department mailed Claimant a Redetermination (DHS-1010) for his MA-G2S and ALMB cases which was due by September 9, 2013.
3. Claimant received the DHS-1010.
4. Claimant did not return the DHS-1010.

5. On September 19, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605), which closed Claimant's MA-G2S and ALMB cases, effective October 1, 2013, for failure to return the redetermination form.
6. On October 17, 2013, Claimant requested a hearing to dispute the closure of his MA-G2S and ALMB cases.

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 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.

Medicare Savings Programs are SSI-related MA categories and are neither Group 1 nor Group 2 categories. BEM 165, p 1 (10-1-2013). There are three categories that make up the Medicare Savings Programs. BEM 165. The three categories are: (1) Qualified Medicare Beneficiaries. This is also called full-coverage QMB and just QMB. Program group type is QMB. BEM 165. (2) Specified Low-Income Medicare Beneficiaries. BEM 165. This is also called limited-coverage QMB and SLMB. BEM 165. Program group type is SLMB. BEM 165. (3) Q1 Additional Low-Income Medicare Beneficiaries. This is also referred to as ALMB and as just Q1. BEM 165. Program group type is ALMB. BEM 165.

The Department must periodically redetermine an individual's eligibility for active programs. BAM 210, p 1. (10-1-2013) The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. A complete redetermination is required at least every 12 months. BAM 210, p. 1. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications; see BAM 130, Obtaining Verification. BAM 210, p. 1.

An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. BAM 210, p. 1. When possible, an ex parte review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220.

For purposes of MA, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210. Also, the redetermination month is 12 months from the date the most recent complete application was submitted. BAM 210.

Verifications are due the same date as the redetermination/review interview. When an interview is not required, verifications are due the date the packet is due. Bridges 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. If the 10th day falls on a weekend or holiday, the verification would not be due until the next business day. Bridges gives timely notice of the negative action if the time limit is **not** met. BAM 210, p. 14.

Here, the Department representative argued that Claimant failed to return the DHS-1010 which caused his MA-G2S and ALMB cases to close. Claimant admitted that he failed to turn in the DHS-1010. However, Claimant states that he is illiterate and that he did not have anyone available to assist him with the DHS-1010.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The ALJ finds the Department's version of events to be credible. There is no dispute the Claimant failed to return the DHS-1010. The record shows that Claimant had a friend prepare his request for hearing form. Before Claimant requested a hearing, the Department was unaware that Claimant could not read. It should also be noted that Claimant did not contact the Department and ask for assistance with regard to the DHS-1010 form. Claimant stated that in the future he planned to promptly forward all correspondence from DHS to a trusted friend who would assist him or, in the alternative, he would inquire about obtaining a representative.

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 acted in accordance with Department policy when it closed Claimant's MA-G2S and ALMB cases.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.

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

Date Signed: December 10, 2013

Date Mailed: December 11, 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.

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

20148301/CAP

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

CAP/aca

cc:

