

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017343
Issue No.: 2002, 3000
Case No.: [REDACTED]
Hearing Date: February 12, 2015
County: Livingston

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on February 12, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] as hearing facilitator and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly close the Claimant's Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1. The Claimant was an ongoing Medical Assistance (MA) and Food Assistance Program (FAP) recipient.
2. On August 12, 2014, the Department sent the Claimant a Redetermination (DHS-1010) and requested that he return this form by September 2, 2014.
3. On September 2, 2014, the Department sent the Claimant a Notice of Missed Interview (DHS-254).
4. On November 14, 2014, the Department notified the Claimant that it would close his Medical Assistance (MA) benefit as of December 1, 2014.
5. On November 24, 2014, the Department received the Claimant's request for a hearing protesting the closure of his Medical Assistance (MA) benefits.

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.

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p 4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

The Claimant was an ongoing Medical Assistance (MA) and Food Assistance Program (FAP) recipient. On August 12, 2014, the Department sent the Claimant a Redetermination (DHS-1010) and requested that he return it to the Department by

September 2, 2014. When the Department did not receive the Claimant's Redetermination form, the scheduled telephone interview could not take place. Therefore, the Department sent the Claimant a Notice of Missed Interview (DHS-254), which notified the Claimant that it was his responsibility to reschedule his redetermination interview.

On November 24, 2014, the Department received the Claimant's request for a hearing protesting the closure of his Medical Assistance (MA) benefits. The request for a hearing did not mention Food Assistance Program (FAP) benefits.

The Department's representative testified that the Department had sent the Claimant notification that his Food Assistance Program (FAP) benefits would close as of September 30, 2014. It is likely that the Claimant was sent notice of the closure of his Food Assistance Program (FAP) benefits on September 2, 2014.

This Administrative Law Judge finds that the Claimant failed to protest the close of Food Assistance Program (FAP) benefit on November 24, 2014, and more than 90 days has passed since the Department notified him of the closure of these benefits. Therefore, the Claimant's grievance with respect to the Food Assistance Program (FAP) only is dismissed.

On November 14, 2014, the Department notified the Claimant that it would close his Medical Assistance (MA) benefits as of December 1, 2014.

The Claimant argues that he did not receive a copy of the Redetermination (DHS-1010) form. The Claimant testified that was willing to provide the Department with the information necessary to determine his eligibility for continuing benefits. The Claimant testified that he has called his caseworker on 11 occasions but has been unable to contact or get information from his caseworker.

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). In this case, the Claimant failed to rebut the presumption of receipt. The Department has presented substantial evidence that it sent the Claimant a Redetermination (DHS-1010) by mail address to the Claimant's current address on record.

No evidence was presented on the record that the Claimant attempted to reschedule his redetermination interview.


The Claimant's complaints of voicemail messages not being returned cannot be address by the Michigan Administrative Hearing System (MAHS) by this hearing decision. A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the Department personnel director. MAC R 400.903.

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 the Claimant's Medical Assistance (MA) benefits.

The Claimant's grievance with respect to the Food Assistance Program (FAP) is dismissed because it does not fall within the jurisdiction of the Michigan Administrative Hearing System (MAHS).

DECISION AND ORDER

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



Kevin Scully
Administrative Law Judge
for Nick Lyon, Acting DHS Director
Department of Human Services

Date Signed: **2/17/2015**

Date Mailed: **2/17/2015**

KS/las

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:

