

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

IN THE MATTER OF:



Reg. No.: 14-019406
Issue No.: 2002
Case No.:
Hearing Date: February 24, 2015
County: ALLEGAN

ADMINISTRATIVE LAW JUDGE: Gary 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 February 24, 2015, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Human Services (Department) included AP Supervisor and Eligibility Specialist (ES) .

ISSUE

Did the Department properly end Claimant's Medicare Cost Share benefits on January 1, 2015?

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 Medicare Cost Share benefits. His ongoing eligibility was due for re-determination by January 1, 2015.
2. On November 10, 2014, the BRIDGES program was scheduled to have a Redetermination (DHS-1010) printed at Central Office to be mailed to Claimant.
3. On December 19, 2014, the Department had not received Redetermination (DHS-1010) forms from Claimant. A Health Care Coverage Determination Notice (DHS-1606) was sent to Claimant stating his Medicare Cost Share benefits would end on January 1, 2015.
4. On December 30, 2014, Claimant submitted 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), 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.

There is nothing in the Department's records which indicate that the Redetermination (DHS-1010) was not successfully printed, put into an envelope by a clerical person, and sent to the Post Office on November 10, 2014. At this hearing Claimant testified that he did not receive any forms for re-determination. The consistency and accuracy of Claimant's address of record was verified.

While automation of many tasks has increased the efficiency of the Department of Human Services', it has changed the type of evidence available to submit at Administrative Law Hearings. In days past, the DHS case worker printed the forms, stuffed the envelope and placed it in the outgoing mail. The DHS case worker was also available to attend an Administrative Law Hearings and provide competent testimony on their own actions.

The evidentiary requirements for an Administrative Law Hearing have not changed. The Department is still burdened with submitting competent evidence of the actions they took, and that those actions were done in accordance with Department policy. The current "Central print" process is given the assumption of accuracy. In this case, Claimant provided competent testimony that the material was not received. Based on the totality of evidence in the record, Claimant's testimony is found credible.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it ended Claimant's Medicare Cost Share benefits on January 1, 2015.

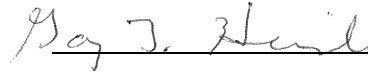
DECISION AND ORDER

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. Re-determine Claimant's Medicare Cost Share eligibility from January 1, 2015, ongoing.

2. Issue Claimant current notice of the Medicare Cost Share eligibility determination.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/4/2015**

Date Mailed: **3/4/2015**

GFH/hj

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 48909-8139

cc:

