

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003272
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: April 13, 2015
County: Genesee (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on April 13, 2015, from Flint, Michigan. Participants included the above-named Claimant. [REDACTED] appeared as Claimant's tactile sign language interpreter. Claimant's spouse testified and [REDACTED] appeared as an American Sign Language interpreter for Claimant's spouse. Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], hearing facilitator.

ISSUE

The issue is whether DHHS properly terminated Claimant's and her spouse's Medical Assistance (MA) eligibility due to a Claimant failure to return redetermination documents.

FINDINGS OF FACT

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

1. On [REDACTED], DHHS mailed Claimant a Health Care Determination Notice notifying Claimant's spouse of an approval for Healthy Michigan Plan (HMP).
2. On [REDACTED], DHHS mailed Claimant a Redetermination (Exhibits 1-6) concerning MA benefits.
3. Claimant did not return the Redetermination to DHHS.

4. On [REDACTED], DHHS mailed Claimant an approval for ongoing HMP benefits and Claimant's spouse an approval for Medicaid, subject to a \$531/month deductible.
5. On [REDACTED], DHHS mailed a notice informing Claimant of an approval for Medicare Savings Program (MSP) benefits.
6. On [REDACTED], DHHS mailed a Health Care Coverage Determination Notice (Exhibits 7-9) informing Claimant's spouse of a termination of MA benefits, effective March 2015, due to a failure to return redetermination documents and/or verifications.
7. On [REDACTED], Claimant requested a hearing to dispute perceived threats to her and her spouse's MA eligibility.

CONCLUSIONS OF LAW

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. DHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. DHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant's hearing request noted that special arrangements were required for participation in the hearing; specifically, a need for sign language interpreters was noted. DHHS arranged for Claimant, who is blind and deaf, to have a tactile sign language interpreter. DHHS also arranged for Claimant's deaf spouse to have an American Sign Language interpreter. Claimant testified that the DHHS provided interpreters were a satisfactory accommodation. Claimant's hearing request also noted a preference for a Monday hearing day; Claimant's request was again accommodated.

Claimant requested a hearing to dispute an alleged termination of her and her spouse's MA eligibility. Much of the hearing was spent determining what actions DHHS took concerning Claimant's and her spouse's MA eligibility.

It was not disputed that Claimant and her spouse were approved for various degrees of MA benefits. Claimant was approved for Medicaid subject to a deductible and MSP. Claimant's spouse was approved for Medicaid.

During the hearing, DHHS was asked what Claimant notices were mailed in the months prior to Claimant's hearing request submission. The only negative action notice before

Claimant's hearing request was a termination of Claimant's MA eligibility, effective March 2015. DHHS also sent a notice on [REDACTED] stating that Claimant's MA eligibility would be terminated, effective May 2015, due to Claimant's failure to return a Redetermination.

Claimant requested a hearing on [REDACTED]. A disputed action taken by DHHS following the submission of Claimant's hearing request is outside of the jurisdiction of the administrative hearing. Thus, Claimant is not entitled to an administrative remedy (at this hearing) concerning the notice sent by DHHS on [REDACTED]. Claimant was advised that she may submit another hearing request to dispute the termination to her MA eligibility. The analysis will proceed to determine whether DHHS properly terminated Claimant's spouse's MA eligibility.

The Notice of Case Action (Exhibits 7-9) dated [REDACTED], stated that Claimant's MA eligibility was closing due to Claimant's failure to return a Redetermination (Exhibits 1-6). DHHS policy explains DHHS' and clients' redetermination obligations.

For all programs, Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. BEM 210 (July 2014), p. 6. The packet is sent to the mailing address in Bridges. *Id.* Redetermination forms include a Redetermination DHHS-1010. *Id.* Benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. *Id.*, p. 2.

During the hearing, Claimant's spouse was asked if he returned the Redetermination to DHHS; he responded that he did not. Claimant's spouse testified that his reason for not doing so was that he was perplexed by the many notices sent by DHHS. He also contended that DHHS' failure to respond to an email and phone calls (he stated that he used a language line) contributed to his failure to return the Redetermination.

Claimant's allegation of poor communication had some merit. DHHS presented no evidence that Claimant's spouse's email or phone calls were returned.

DHHS also could not explain some odd circumstances of Claimant's case. For example, Claimant's spouse's MA eligibility was stopped effective March 2015. If DHHS mailed the Redetermination in the month before it was due, presumably, Claimant's spouse's MA eligibility should have ended starting in 2015. It is also not understood why Claimant's spouse's MA eligibility did not stop at the same time. Instead, DHHS inexplicably waited until [REDACTED] to initiate closure of Claimant's MA eligibility. Though some oddities and subpar DHHS communication was established, neither excuse Claimant's failure to return redetermination documents.

Claimant testimony initially contended that DHHS never mailed a Redetermination. Claimant testified that, though she is blind, her husband would have told her that he

received a Redetermination. Claimant withdrew her contention after she was advised that her testimony contradicted her spouse's testimony.

Claimant and her spouse also alleged a five year history of poor communications by DHHS. It is not understood why DHHS' alleged distant history of poor communication excuses Claimant from complying with redetermination obligations.

Presented evidence verified some subpar communication and inexplicable actions by DHHS. The most pivotal failure in the present case was Claimant's failure to return the Redetermination. It is found that DHHS properly terminated Claimant's spouse's MA eligibility due to Claimant's failure to return a Redetermination.

A closure of MA benefits is not a permanent outcome. As discussed at the hearing, Claimant's spouse can always reapply for MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHHS properly terminated Claimant's spouse's MA eligibility effective March 2015. The actions taken by DHHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Human Services

Date Signed: **4/21/2015**

Date Mailed: **4/21/2015**

CG / hw

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:

