

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

IN THE MATTER OF:



Reg. No.: 15-003424
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: May 06, 2015
County: Menominee

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 6, 2015, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Health and Human Services (Department) included Family Independence Specialist (FIS) [REDACTED]

ISSUE

Did the Department properly end Claimant's daughter's Medical Assistance on March 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's daughter was an ongoing recipient of Medical Assistance. Her Medical Assistance eligibility was due for re-determination by March 1, 2015.
2. On January 13, 2015, Claimant was sent a Redetermination (DHS-1010) form which was due back by February 2, 2015.
3. On February 13, 2015, Claimant was sent a Health Care Coverage Determination Notice (DHS-1606) which stated his daughter would not be eligible for Medical Assistance beginning March 1, 2015.
4. On February 24, 2015, Claimant submitted a hearing request.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

During this hearing the Department representative testified that Claimant's electronic document file did not show receipt of the Redetermination (DHS-1010). Claimant testified that he filled out the Redetermination (DHS-1010) and mailed it back a couple of days after receiving it. Testimony from the Department representative was that the Redetermination (DHS-1010) was mailed from central print and includes a self-addressed envelope for mailing back to central scanning.

In accordance with the Michigan Administrative Procedures Act, an Administrative Law Judge may admit and give probative effect to any evidence. However, the final decision and order must be supported by and in accordance with competent, material, and substantial evidence.

The Department's action is based on their assertion that Claimant did not return the Redetermination (DHS-1010). The Department has presented competent and credible evidence that the Redetermination (DHS-1010) was not in Claimant's electronic document file. The Department's evidence creates a presumption that the documents were not received at central scanning. Evidentiary presumptions can be rebutted by evidence.

Claimant testified credibly that he mailed the Redetermination (DHS-1010) within a couple of days of receiving it. Claimant's evidence creates a presumption of receipt by the Department.

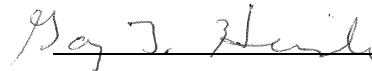
Both parties have presented competent evidence which creates a presumption about receipt of the Redetermination (DHS-1010) by the Department. Neither party has presented competent, direct, evidence about receipt of the Redetermination (DHS-1010) by the Department. The Department has the initial burden of going forward with evidence to show that their action is correct. 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 daughter's Medical Assistance on March 1, 2015.

DECISION AND ORDER

Accordingly, the Department's decision **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 daughter's Medical Assistance eligibility beginning March 1, 2015.
2. Issue Claimant current notice of the re-determination.



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

Date Signed: **5/13/2015**

Date Mailed: **5/13/2015**

GH/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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

