

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-006319
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: July 09, 2015
County: MACOMB-DISTRICT 12

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 4-way telephone hearing was held on July 9, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. The Claimant's Authorized Hearing Representative [REDACTED] (AHR) also appeared. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Claimant's Medicare cost sharing program 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. On [REDACTED], the Department sent the Claimant a redetermination packet for his Medicare Cost Sharing. The packet was to be returned by [REDACTED]. Exhibit 1
2. The Department issued a Notice of Missed interview on [REDACTED].
3. The Department closed the Claimant's case on [REDACTED], as the redetermination was never received. The notice was sent [REDACTED]. All the notices were sent to the correct address. Exhibit 2

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.

In this case, the Claimant had a serious vision problem and an injury that causes him difficulty with responding to mail. The Claimant's Authorized Hearing Representative was not added to the Claimant's case as an Authorized Representative so that he could assist the Claimant with Department requests. At the time of the hearing, the Claimant had not authorized in writing advising the Department that he desired to make his AHR and Authorized Representative.

The evidence presented at the hearing demonstrated that the Department properly closed the Claimant's Medicare Cost Sharing case, as all mail was sent to the Claimant's proper address. 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 there was no evidence that the presumption was rebutted. BAM 130 (July 1, 2015) p. 10

As regards the Claimant's desire to have his friend (who served as an Authorized Hearing Representative at the hearing) be his Authorized Representative, the Claimant must authorize in writing that he wishes the AHR to also be his Authorized Representative. He must also provide such written notice to the Department so that the Authorized Representative can be added to the Claimant's case to represent him. This can be completed by a written letter authorizing the Authorized Representative (AR) by name and providing the AR's address and must be dated and signed by the Claimant so the Department has authority to make the requested change. If the Claimant also desires that the AR also represent him for Food Assistance, the written authorization signed by the Claimant should so provide. An Authorized Hearing Representative is authorized for the hearing only and does not otherwise authorize the individual AHR to respond to communications sent to the Claimant by the Department.

Authorized Representatives

All Programs

An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (for example, to obtain FAP benefits for the group).

Note: An AR is **not** the same as an Authorized Hearings Representative (AHR); see the Bridges Policy Glossary (BPG) for hearings policy definition.

Medicaid Only

An authorized representative must be one of the following:

- An adult child or stepchild.
- A core relative.
- Designated in writing by the individual. BAM 110. (July 1, 2015) p. 9-12

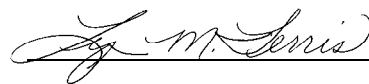
The Claimant agreed under oath and granted the Department authority to provide his AHR with the proper forms so that he could become the Claimant's Authorized Representative. However, as explained above all that is necessary is authorization in writing returned to the Department.

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 Medicare Cost sharing case for failure to complete the redetermination.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/3/2015**
Date Mailed: **8/3/2015**

LMF / 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 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:

