

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

IN THE MATTER OF:



Reg. No.: 15-011601
Issue No.: 2002, 2003
Case No.: [REDACTED]
Hearing Date: September 01, 2015
County: Saginaw

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 September 1, 2015 from Lansing, Michigan. Claimant personally appeared and provided testimony. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) or "Medicaid" case due to failure to return redetermination forms?

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 active for MA and Medicare Savings Program (MSP) benefits.¹
2. On March 17, 2015, the Department mailed Claimant a Redetermination (DHS-1010), which was due to be completed no later than April 1, 2015. (Exhibit 1, p. 15-20).
3. On April 17, 2015, the Department mailed Claimant a Health Care Coverage Determination Notice (DHS-1606), which indicated that effective May 1, 2015 Claimant was no longer eligible for MSP assistance or MA benefits because she failed to return the redetermination form. (Exhibit 1, pp. 3-6)

¹ Claimant did not specifically request a hearing concerning her MSP benefits.

4. On June 22, 2015, the Department received Claimant's request for hearing regarding the closure of her Medicaid case.²

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 who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105, p 18. Clients must take actions within their ability to obtain verifications. BAM 130 and BEM 702 (1-1-2014). Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130.

Verifications are considered timely if received by the date they are due. BAM 130, p 6. For MA, the client has 10 days to provide requested verifications (unless policy states otherwise). BAM 130. For MA only, if the client cannot provide the verification despite a reasonable effort, the department worker may extend the time limit up to three times. BAM 130, p 6. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130, p 6. Verifications are considered timely if received by the date they are due. BAM 130.

The Department of Human Services must periodically redetermine an individual's eligibility for active programs. The redetermination process includes thorough review of all eligibility factors. BAM 210, p 1 (4-1-2015). Redetermination is defined as "the periodic, thorough re-evaluation of all eligibility factors to determine if the group continues to be eligible for program benefits." See Bridges Program Glossary, p 54. For all programs, a complete redetermination is required at least every 12 months. BAM 210, p 1.

² Claimant reapplied for Health Care Coverage by submitting an online application on June 25, 2015. However, this application was pending and Claimant did not receive an adverse notice of case action at the time of the request for hearing.

For MA, benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. BAM 210, p 2. An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220. BAM 210, p. 1.

For all programs, a redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p 10. When a complete packet is received, policy requires the Department record the receipt in Bridges as soon as administratively possible. BAM 210, p 10. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p 10.

Here, the Department submits that Claimant's MA case was properly closed because she failed to return the redetermination forms. Claimant, on the other hand, contends that she did not remember receiving the redetermination forms, but she acknowledged that she received many papers from the Department.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Claimant does not directly challenge the Department's claim that the redetermination was properly sent to her. Rather, Claimant's testimony in this regard was that she did not recall receiving the redetermination. The Department representative's testimony that the Department properly mailed Claimant the redetermination in the regular course of business coupled with a copy of the redetermination form in evidence, demonstrates that the document was presumed to have been sent. In other words, the proper mailing and addressing of a letter creates a presumption of receipt but that presumption may be rebutted by evidence. See *Goodyear Tire & Rubber Co v City of Roseville*, 468 Mich 947, 947 (2003). Claimant did not provide any evidence to overcome the presumption that the redetermination form was sent to her. Accordingly, the undersigned finds that the Department properly closed Claimant's MA case for failure to return the redetermination forms.

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 Claimant's MA case.

DECISION AND ORDER

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



Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Human Services

Date Signed: **9/9/2015**

Date Mailed: **9/9/2015**

CAP/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:

