

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

IN THE MATTER OF:

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████████████████████
████████████████████

MAHS Reg. No.: 15-014030
Issue No.: 2003
Agency Case No.: ██████████
Hearing Date: October 19, 2015
County: Wayne-District 17

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Petitioner'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 October 19, 2015, from Detroit, Michigan. The Petitioner was represented by: his Authorized Hearing Representative (AHR) Diane Kaminski; ██████████, of ██████████; ██████████; and ██████████, Manager at ██████████. The Department was represented by ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) and Medicare Savings Program (MSP) cases on the basis that he failed to return a redetermination?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of MA and MSP benefits.
2. On March 17, 2015, the Department sent Petitioner a redetermination form for his MA and MSP cases that was to be completed and returned to the Department by April 1, 2015. (Exhibit A, pp. 9-14)
3. On May 18, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that effective June 1, 2015, his MA and MSP cases would be closed on the basis that he failed to return the redetermination. (Exhibit A, pp. 15-18)

4. On August 4, 2015, Petitioner reapplied for MA and MSP benefits and was subsequently approved. (Exhibit B)
5. On August 4, 2015, Petitioner requested a hearing disputing the Department's actions with respect to his MA and MSP benefits.

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.

MSP are SSI-related MA categories and are neither Group 1 nor Group 2. Qualified Medicare Beneficiaries (QMB) is a full coverage program. BEM 165 (January 2015), p. 1. QMB pays: Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them); Medicare coinsurances; and Medicare deductibles. A person receiving MA under the Disabled Adult Child category and entitled to Medicare Part A are considered QMB eligible without a separate QMB determination. The Department will begin QMB coverage the calendar month after the processing month. The processing month is the month during which an eligibility determination is made. QMB is not available for past months or the processing month. BEM 165, pp. 1-3.

Additionally, the Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (April 2015), p 1. A client must complete a redetermination at least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210, p. 1. The Department allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information for MA redeterminations. BAM 210, p.14. For MA cases, 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. The Department will provide the client with timely notice of the negative action by sending a Notice of Case Action if the time limit is not met. BAM 210, p.14.

In this case, Petitioner was an ongoing recipient of MA under the Disabled Adult Children (DAC) MA program and was also an ongoing recipient of MSP benefits under the QMB program. The Department testified that because it did not receive Petitioner's completed redetermination by the April 1, 2015, due date, it sent Petitioner a Health Care Coverage Determination Notice informing him of the closure of his MA and MSP cases effective June 1, 2015, based on a failure to return a redetermination.

At the hearing, Petitioner's AHR, who was also his sister and responsible for Petitioner's case with the Department, testified that she did not receive the redetermination from the Department which is why she did not complete and return it. 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). Although the redetermination was mailed to Petitioner's representative at her confirmed mailing address, Petitioner's AHR credibly stated that she was having trouble with receiving mail. Petitioner's AHR testified that her mail is frequently delivered to [REDACTED] Fairway, a house down the street and not to her own address of [REDACTED]. Petitioner's AHR stated that she often does not receive mail and that when she does, it is sometimes ripped open. Petitioner's AHR testified that she reported the issues with her mail to the Post Office but not with the Department because she was not expecting anything in the mail from the Department and was unaware that she did not receive the redetermination until later. Petitioner's representative presented sufficient evidence to rebut the presumption that she received the redetermination.

At the hearing, there was some evidence presented regarding an application for MA and MSP benefits that Petitioner submitted on August 4, 2015, the same day the hearing request was submitted. The Department testified that Petitioner was approved for MA for the period of August 1, 2015, ongoing and MSP benefits for the period of September 1, 2015, ongoing. (Exhibit B). The Department testified that, prior to the commencement of the hearing, it reinstated Petitioner's MA case under the DAC program and provided him with retroactive MA benefits for the period of June 1, 2015, to July 31, 2015. The Department presented a Health Care Coverage Determination Notice and an eligibility summary in support of its testimony. (Exhibit C; Exhibit D). The Department stated that because retroactive coverage is not available for the QMB program, there was a lapse in MSP benefits due to the case closure effective June 1, 2015.

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 because Petitioner's AHR established that she did not receive the redetermination, the Department did not act in accordance with Department policy when it closed Petitioner's MA and MSP cases based on a failure to return the redetermination. To the extent that there was a lapse in MA and MSP coverage, the Department shall reinstate and supplement Petitioner for any missed benefits in accordance with the Decision and Order below.

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. Reinstate Petitioner's DAC MA and QMB MSP cases effective June 1, 2015;
2. Provide Petitioner with DAC MA and QMB MSP coverage from June 1, 2015, ongoing, in accordance with Department policy; and
3. Notify Petitioner and his AHR in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/26/2015**

Date Mailed: **10/26/2015**

ZB / tlf

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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