

**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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Reg. No.: 15-015043
Issue No.: 2003 3003
Case No.: ██████████
Hearing Date: October 14, 2015
County: Macomb (12)

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, a telephone hearing was held on October 14, 2015, from Detroit, Michigan. Participants included the above-named Claimant. ██████████, Claimant's mother, testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, hearing facilitator.

ISSUE

The first issue is whether Claimant submitted a valid hearing request.

The second issue is whether MDHHS properly terminated Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) eligibility.

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 an ongoing FAP and MA benefit recipient.
2. Claimant's FAP and MA benefit period was scheduled to end effective June 2015.
3. Claimant's case had an authorized representative (AR).
4. On May 12, 2015, MDHHS mailed Claimant and her AR a Redetermination.

5. Claimant failed to return the Redetermination to MDHHS.
6. Claimant's FAP and MA eligibility expired at the end of May 2015.
7. On August 17, 2015, Claimant's AR (also Claimant's AHR) submitted a hearing request to MDHHS disputing the termination of FAP and MA eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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

Claimant's AHR requested a hearing disputing the termination of Claimant's FAP and MA eligibility, effective June 2015. MDHHS raised a procedural argument that must first be addressed. MDHHS alleged that Claimant's hearing request should be dismissed due to the absence of Claimant's signature.

The hearing request was not admitted as an exhibit but it did not have Claimant's signature under a section titled "Signature of Person Requesting Hearing." The hearing request had Claimant's printed name in the top right corner under "Case Name", though it is not known who wrote Claimant's name.

For purposes of this decision, it will be found that Claimant's hearing request was valid. Accordingly, the analysis will address the substance of Claimant's dispute.

The Michigan Department of Health & Human Services must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2015), p. 1. The redetermination process includes thorough review of all eligibility factors. *Id.* A complete

redetermination is required at least every 12 months. *Id.* Bridges sets the redetermination date according to benefit periods. *Id.*

For FAP benefits, the redetermination process begins when the client files a DHS-1171, Assistance Application; DHS-1010, Redetermination; DHS-1171, Filing Form; or DHS-2063B, Food Assistance Benefits Redetermination Filing Record. *Id.*, p. 2. FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.* If the client does not begin the redetermination process, MDHHS is to allow the benefit period to expire. For MA, benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. *Id.*

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. *Id.*, p. 6. The packet is sent to the mailing address in Bridges. *Id.* Redetermination forms include a Redetermination DHHS-1010. *Id.*

MDHHS presented a Redetermination dated May 12, 2015, (Exhibits 10-15) mailed to Claimant's AR/AHR. MDHHS presented the first page of a Redetermination Telephone Interview (Exhibit 9) dated May 12, 2015 mailed to Claimant. MDHHS provided supporting testimony that their database showed that each form was mailed on May 12, 2015.

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). MDHHS presented sufficient evidence to establish a presumption that Claimant and her AR/AHR received redetermination forms.


Claimant's AHR testified that she did not receive a Redetermination. Claimant's AHR further testified that her daughter understands the importance of preserving MDHHS mail. Claimant's mother testified that her daughter gives her all mail from MDHHS. Claimant's mother testified that her daughter did not give her a Redetermination. Claimant's mother surmised that her daughter must not have received redetermination documents because her daughter did not forward the documents.

It is highly improbable that the United States Postal Service would have failed to deliver the same document sent to two different addresses. Claimant's mother's testimony seemed credible enough; however, it was not sufficiently supported to rebut the presumption of receipt. It is found that Claimant and her mother received redetermination documents.

It was not disputed that neither Claimant nor her mother returned redetermination documents to MDHHS. Accordingly, it is found that MDHHS properly terminated Claimant's FAP and MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Claimant's FAP and MA eligibility effective June 2015. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **10/16/2015**

Date Mailed: **10/16/2015**

CG/tm

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]