

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-021081
Issue No.: 2003
Agency Case No.: [REDACTED]
Hearing Date: January 21, 2016
County: MACOMB-DISTRICT 12

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 January 21, 2016, from Detroit, Michigan. The Petitioner was represented by the Authorized Hearing Representative (AHR), [REDACTED]; Petitioner's father, [REDACTED]; and Petitioner, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) and Medicare Savings Program (MSP) benefits effective November 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. Petitioner was an ongoing recipient of MA and MSP benefits.
2. On [REDACTED], the Department sent Petitioner a redetermination (review of MA/MSP eligibility) and it was due back by [REDACTED]. See Exhibit A, pp. 4-9.
3. Petitioner's father indicated that the Petitioner never received the redetermination.
4. The Department indicated that it never received Petitioner's redetermination before the benefit period had ended ([REDACTED]).

5. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that his MA and MSP benefits would close effective [REDACTED], due to his failure to submit the redetermination. See Exhibit A, pp. 11-13.
6. On [REDACTED], Petitioner's AHR filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2015), p. 8. This includes completion of necessary forms. BAM 105, p. 8. The local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105, p. 14.

Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210 (October 2015), p. 1. A complete redetermination is required at least every 12 months. BAM 210, p. 1. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1.

For MA cases, benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. BAM 210, p. 2. Also, the renewal month is 12 months from the date the most recent complete application was submitted. BAM 210, p. 2.

The Department does not redetermine the following MA coverages:

- Special N/Support; see BEM 113.
- Title IV-E recipients; see BEM 117.
- Special needs adoption assistance recipients; see BEM 117.

- Department wards; see BEM 117.
- Supplemental Security Income (SSI) recipients; see BEM 150.

BAM 210, p. 3.

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, the Department records the receipt in its system 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. For MA cases, benefits are not automatically terminated for failure to record receipt of the redetermination packet. BAM 210, p. 11.

In the present case, Petitioner's father testified that the Petitioner never received the redetermination dated [REDACTED]. See Exhibit A, pp. 4-9. Petitioner's father testified that they did receive the determination notice dated [REDACTED]. See Exhibit A, pp. 11-13. Moreover, Petitioner's father testified that the address was proper on the redetermination and that they do have issues in receiving mail correspondence. Petitioner's father testified that the neighbors do receive each other's correspondence. Furthermore, Petitioner's father testified that there is a similar address as Petitioner's located in Mt. Clemens, Michigan. Petitioner's father also testified that this was the first instance with a mail issue with the Michigan Department of Health and Human Services (MDHHS) and that he did not report any of these problems to the local Post Office. Finally, Petitioner's father testified that he did speak the Department at the end of October 2015 upon receipt of the determination notice.

In response, the Department testified that the redetermination was mailed to the proper address, it was mailed via central print, and it was not returned back as undeliverable from the United States Postal Service (USPS).

It should be noted that Petitioner's father pointed out a question in the redetermination in which a Petitioner can elect to renew eligibility automatically. See Exhibit A, p. 8. Petitioner's father testified that in a previous application, he checked the box to have his eligibility automatically renewed for 5 years. Thus, Petitioner's father inferred that it would be unnecessary for Petitioner to submit a redetermination every 12 months and/or this might have been the reason why a redetermination was not received. However, the Department indicated that this question is only related to individuals who receive MA coverage under the Modified Adjusted Gross Income (MAGI) categories. The Department argued that Petitioner does not receive MAGI-related coverage. The Department testified that Petitioner was an ongoing recipient of Group 2 Spend-Down (G2S) – MA coverage and Q1 Additional Low-Income Medicare Beneficiaries (ALMB) – MSP coverage, which require annual redeterminations.

BEM 165 states that a redetermination of ALMB eligibility must be completed before the end of each calendar year. BEM 165 (October 2015), p. 8. The Department sets the

ALMB redetermination date as September, October, November or December. BEM 165, p. 8. ALMB cannot have a 24 month certification. BEM 165, p. 8.

Moreover, G2S is an SSI-related Group 2 MA category. BEM 166 (July 2013), p. 1. Also, as stated above in policy, MA redeterminations are required; however, the Department does not redetermine the following MA coverages:

- Special N/Support; see BEM 113.
- Title IV-E recipients; see BEM 117.
- Special needs adoption assistance recipients; see BEM 117.
- Department wards; see BEM 117.
- Supplemental Security Income (SSI) recipients; see BEM 150.

BAM 210, p. 3.

The evidence indicated that Petitioner does not fall under any of the above MA exceptions. Therefore, it was proper for the Department to request a redetermination of his MA eligibility as he was an ongoing recipient of G2S coverage. See BAM 210, pp. 1-3. Moreover, because Petitioner was an ongoing recipient of ALMB coverage, the Department also acted in accordance with Department policy when it requested a redetermination of his ALMB coverage. BEM 165, p. 8.

Nonetheless, based on the foregoing information and evidence, the Department properly closed Petitioner's MA and MSP benefits effective [REDACTED], ongoing, in accordance with Department policy. See BAM 105, p. 8 and BAM 210, pp. 1-11.

The proper mailing and addressing of a letter creates a presumption of receipt which 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).

It is found that Petitioner failed to rebut the presumption of proper mailing. The Department provided sufficient evidence to show that it sent Petitioner the redetermination to his proper address in September of 2015 and that it did not come back as undeliverable mail from the USPS. See Exhibit A, pp. 4-9. Moreover, Petitioner's father did argue that they do have issues in receiving correspondence. However, Petitioner's father failed to provide any documentary proof of such mailing issues (i.e., proof of receiving neighbor's mail) nor did he report the problem to the local Post Office, which would show to the undersigned a documented history that he did in fact have issues in receiving mail at his address. As such, it is found that the Department properly sent Petitioner's redetermination to his address in September of 2015. Because the redetermination was properly mailed and Petitioner failed to submit the redetermination before the end of the benefit period ([REDACTED]), the Department acted in accordance with Department policy when it closed Petitioner's MA and MSP benefits effective [REDACTED], ongoing. See BAM 105, p. 8 and BAM 210, pp. 1-11. Petitioner can reapply for MA and MSP benefits.

DECISION AND ORDER

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 Petitioner's MSP and MA benefits effective [REDACTED].

Accordingly, the Department's MA and MSP decision is **AFFIRMED**.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/21/2016**

Date Mailed: **1/21/2016**

EF / 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:

