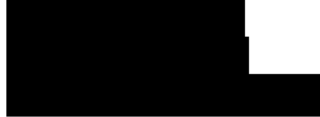


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-023994
Issue No.: 2003, 3000
Agency Case No.: [REDACTED]
Hearing Date: February 09, 2016
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 February 9, 2016, from Lansing, Michigan. Petitioner personally appeared and provided testimony. [REDACTED] [REDACTED] (Family Independence Manager) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) case due to failure to complete and return a redetermination packet?

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 active for MA-GS2 benefits during the relevant time period.
2. On or about November 16, 2015, the Department mailed Petitioner a redetermination (DHS-1010) packet which indicated that the due date to complete and return the packet was December 1, 2015. [Exhibit 1, pp. 6-11].
3. Petitioner completed the redetermination packet and then faxed it to the Washtenaw County DHHS office on November 25, 2015.
4. The Department lost or misplaced Petitioner's properly completed and signed redetermination packet.
5. On December 18, 2015, the Department mailed Petitioner a Health Care Coverage Determination Notice (DHS-1606) which closed her MA benefits because she "failed to return the redetermination form . . ." [Exh. 1, pp. 13-14].

6. Petitioner requested a hearing to dispute the MA closure and FAP reduction.
7. The hearing commenced on February 9, 2016.
8. During the hearing, Petitioner voluntarily withdrew her FAP request for hearing because the matter had been resolved.

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.

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 (10-1-2015). 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." Bridges Program Glossary (10-1-2015), p. 54. For all programs, a complete redetermination is required at least every 12 months. BAM 210, p 1.

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. 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. **For MA, benefits are not automatically terminated for failure to record receipt of the renewal packet. BAM 210, p. 11.**

In order to receive uninterrupted benefits, (benefits available on his/her scheduled issuance date) the client must file the redetermination through MI Bridges or file either a DHS-1010, Redetermination, DHS-1171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the redetermination month. BAM 210, p. 13. Exception: If the client's redetermination materials are mailed late, the timely filing date is 17 days **after** the materials are mailed. BAM 210, p 13.

For MA, verifications are due the same date as the redetermination/review interview. When an interview is not required, verifications are due the date the packet is due. BAM 210, p. 14.

Bridges 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. If the 10th day falls on a weekend or holiday, the verification would not be due until the next business day. Bridges gives timely notice of the negative action if the time limit is **not** met. BAM 210, p. 14.

If verifications are provided by the required deadline, but too late for normal benefit issuance, benefits must be issued within five work-days. BAM 210, p. 14.

The standard of promptness (SOP) is the maximum time allowed to complete a required case action. Cases should be processed as quickly as possible. BAM 220 (10-1-2015), p. 6.

For all programs, [the Department worker must] “[e]nter all changes in Bridges by changing the affected data elements. Certify the eligibility results in Bridges for all appropriate benefits and benefit periods.” BAM 220, p. 11.

An ex parte review (see glossary) must begin at least 90 days (when possible) prior to the close of any Medicaid Type of Assistance. BAM 220, p. 17.

Here, the Department representative testified that Petitioner faxed her completed redetermination form to the local office before the due date on November 25, 2015, but that there may have been either a problem with the fax or that it may have been lost. Either way, the Department representative contends that Petitioner would have to submit a new assistance application in order to receive continued MA benefits. The Department representative further testified that Petitioner failed to physically come to the local office to submit the redetermination form. Petitioner, on the other hand, contends that she properly and timely faxed the completed redetermination form to the local office on November 25, 2015. Petitioner further asserts that she was unable to physically return to the local office to submit a second copy of the redetermination form as she had transportation problems.

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. First, the record evidence does not show that Petitioner failed to complete the redetermination form, nor does it show that Petitioner failed to

timely fax the form to the local office. There is no evidence in the record that Petitioner failed to fax a complete form or that she made some other mistake when she sent it to the Department. Rather, the record evidence shows that Petitioner properly and timely faxed the redetermination form to the Department. To the extent there is a credibility contest, the undersigned finds that Petitioner's testimony to be more credible with regard to whether she faxed a complete copy of her redetermination form to the Department on November 25, 2015.

Because Petitioner timely submitted a complete redetermination packet, her MA benefits should have been processed immediately and should not have been closed. According to BAM 210, page 10, "[w]hen a complete packet is received, policy requires the Department record the receipt in Bridges **as soon as administratively possible.**" [Emphasis added]. Policy also prohibits the automatic termination of MA benefits for failure to record receipt of the renewal packet. See BAM 210, p. 11. Here, the Department violated BAM 210.

In addition, the undersigned is unaware of any policy that requires a client to physically turn in a completed redetermination packet to the local office after the previous redetermination packet she mailed timely was lost or misplaced. Petitioner satisfied her obligation when she faxed the redetermination form to the local office, the Department had no basis to close her MA case in this instance. Accordingly, based on the material, competent and substantial evidence on the whole record, the undersigned finds that the Department failed to properly and timely process Petitioner's redetermination packet and improperly close her MA case.

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 did not act in accordance with Department policy when it lost or misplaced Petitioner's completed redetermination packet and then closed her MA case for failure to return the redetermination form.

DECISION AND ORDER

Accordingly, the Administrative Law Judge hereby orders the following:

- Petitioner's FAP request for hearing is **DISMISSED** based on Petitioner's withdrawal at the hearing.
- The Department's December 18, 2015 decision to close Petitioner's MA case is **REVERSED**.

WITH REGARD TO THE MA CASE, 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. The Department shall initiate a reinstatement of Claimant's MA benefits case.

2. The Department shall initiate a redetermination of Claimant's eligibility for MA benefits back to the date of closure.
3. If necessary, the Department shall request a ticket to implement the above.
4. The Department shall initiate a redetermination as to whether Claimant is entitled to retroactive and/or supplemental MA benefits as provided by applicable policies.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Health & Human Services

Date Mailed: 2/10/2016

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:

