



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 10, 2016
MAHS Docket No.: 15-023649
Agency No.: [REDACTED]
[REDACTED]

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 February 11, 2016, from Detroit, Michigan. The Petitioner was represented by her Attorney, [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) case on the basis that she 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 benefits under a long term care program.
2. In connection with a redetermination, Petitioner's eligibility to receive MA benefits was reviewed.
3. On October 13, 2015, the Department sent Petitioner a Long-Term Care Medicaid Redetermination Notice (Redetermination) form and enclosed an application that were to be completed and returned to the Department by November 2, 2015. (Exhibit A)

4. The Redetermination and enclosed documents were sent to Petitioner's attorney/Authorized Representative (AR) at his confirmed mailing address. (Exhibit A)
5. The Department did not receive a completed Redetermination or the enclosed application by the November 2, 2015, due date and there was no request for extension or assistance made by Petitioner or her AR.
6. On November 19, 2015, the Department sent Petitioner's AR a Health Care Coverage Determination Notice (Notice) informing him that effective December 1, 2015, Petitioner's MA case would be closed on the basis that she failed to return the Redetermination. (Exhibit B)
7. After receiving the above referenced Notice, and on November 25, 2015, Petitioner's AR sent the Department an email indicating that he never received the Redetermination, that he appeals the decision to close Petitioner's MA case, and requested a meeting with the Department.
8. On November 30, 2015, Petitioner's attorney/AR requested a hearing to dispute the Department's actions relating to the MA case closure based on a failure to return a redetermination.

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 must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (October 2015), p 1. Unless otherwise specified by Department policy, 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. 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. 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 if the time limit is not met. BAM 210, p.14.

In this case, the Department testified that because it did not receive the completed Redetermination form and the enclosed application from Petitioner or her AR by the November 2, 2015, due date and because it did not receive any contact from Petitioner or her AR prior to the due date listed on the Redetermination, it sent Petitioner's AR a Health Care Coverage Determination Notice advising that effective December 1, 2015, Petitioner's MA case would be closed due to a failure to return the redetermination. (Exhibit A; Exhibit B).

At the hearing, Petitioner's attorney, who was also her AR and responsible for Petitioner's MA case with the Department at the time of the review stated that he did not receive the Redetermination and enclosed application from the Department which is why he did not complete and return them by November 2, 2015. Petitioner's attorney also presented a signed and sworn Affidavit of [REDACTED], who is Petitioner's niece and agent under a General Durable Power of Attorney. (Exhibit 1; Exhibit 3). The Affidavit stated that [REDACTED] did not receive any correspondence from the Department regarding the Redetermination and that no correspondence was sent to Petitioner at the nursing home in which she resides. (Exhibit 3).

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). A review of the Redetermination and the Health Care Coverage Determination Notice establish that both were sent to the mailing address of Petitioner's attorney/AR, which he confirmed on the record was [REDACTED]. At the hearing, Petitioner's Attorney stated that he was not having any known issues with receiving mail and confirmed that he received the November 19, 2015, Notice advising of the case closure. Petitioner's attorney argued that the Department had sent other correspondence and communications to an incorrect mailing address after the case closed and hearing was requested, however, the Redetermination and Notice were addressed and mailed to the correct address. (Exhibit 4). Thus, based on Petitioner's attorney's testimony at the hearing, he has not presented sufficient evidence to rebut the presumption that he received the Redetermination packet, as the documents were properly addressed.

Petitioner's attorney presented an email that he sent to the Department on November 25, 2015, after receiving the Notice of case closure. (Exhibit 2). In the email, he informs that Department that he did not receive the Redetermination. Upon further review, Petitioner's AR did not ask the Department to resend the Redetermination packet, but rather informed the Department that he wanted to appeal the case closure and discuss

the issue with the case worker and a supervisor. (Exhibit 2). Petitioner's attorney further stated that he contacted the Department by telephone after receiving the Notice and prior to the December 1, 2015, case closure, however, he did not provide any specific details regarding when the calls were made and for what purpose. Petitioner's attorney confirmed that neither he nor Petitioner's niece submitted the completed Redetermination prior to the due date and prior to the case closure.

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 based on the evidence presented at the hearing, the Department acted in accordance with Department policy when it closed Petitioner's MA case based on a failure to return a redetermination.

There was some testimony at the hearing that a new application for MA was submitted on or around December 31, 2015, and that application was denied. Petitioner's attorney was informed that because this is determined to be a subsequent action, occurring after the November 30, 2015, request for hearing was filed, Petitioner was required to submit a new hearing request to have the issue addressed.

DECISION AND ORDER

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



ZB/tlf

Zainab Baydoun

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

Counsel for Complainant

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

DHHS

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

Petitioner

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

CC:

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