



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 14, 2016
MAHS Docket No.: 15-023950
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 March 2, 2016, from Lansing, Michigan. Petitioner was represented by himself. The Department was represented by Hearing Facilitator [REDACTED]

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) beginning October 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 Medical Assistance (MA) benefits. His Medical Assistance (MA) benefits were due for eligibility re-determination by October 1, 2015.
2. On August 17, 2015, the Department mailed a Redetermination (DHS-1010) to Petitioner at his correct address of record.
3. On September 18, 2015, the Department had not received the Redetermination (DHS-1010) or required proofs. Petitioner was sent a Health Care Coverage Determination Notice (DHS-1606) which stated his Medical Assistance (MA) would close on October 1, 2015.

4. On December 17, 2015, Petitioner submitted this hearing request.

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.

During this hearing Petitioner testified that although the Redetermination (DHS-1010) was mailed to his address of record, he did not receive it until after it was due back. 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).

Petitioner testified that mail for the complex he lives in has been severely disrupted by ongoing maintenance and repairs. He specifically testified that the siding was being replaced and the unit numbers were all taken down. Petitioner had pictures at the local office and the Department representative was asked to review them and verbally describe them. Her description was consistent with the testimony Petitioner gave. Petitioner has provided sufficient evidence to rebut the presumption of receipt.

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 while the Department acted in accordance with Department policy, the evidence in this record shows that Petitioner did not receive the Redetermination (DHS-1010) in a timely manner due to factors beyond the control of the Department. The Department's policies were developed to provide applicants and recipients sufficient notice of the requirements to receive assistance. In this case, the external factors caused a failure of sufficient notice for Petitioner to comply with the Department's requirements.

DECISION AND ORDER

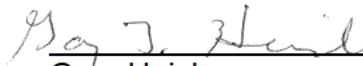
Accordingly, the Department's action is **REVERSED**.

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. Reissue Petitioner a Redetermination (DHS-1010) for the period beginning October 1, 2015.
2. Process Petitioner's Redetermination (DHS-1010) in accordance with Department policy.

GH/nr



Gary Heisler
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

DHHS



[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]