



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: April 11, 2016
MAHS Docket No.: 15-021871
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 28, 2016, from Detroit, Michigan. The Petitioner was present and represented by Jill Wadley, Authorized Hearing Representative (AHR). [REDACTED] were present as observers on behalf of Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's MA benefits effective October 31, 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 MA recipient.
2. Petitioner moved to [REDACTED] and on [REDACTED], requested that her Michigan MA benefits be closed.
3. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice advising that her MA benefits would close effective [REDACTED].

4. On [REDACTED], Petitioner's AHR filed a Request for Hearing disputing the Department's actions.

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.

Additionally, under Department policy, a recipient or his legal guardian or authorized representative requests in writing that the case be closed. BAM 220 (July 2015), p. 3. Petitioner moved to Ohio in early to mid-September 2015. Petitioner began experiencing symptoms from a stroke she had approximately three years earlier. Petitioner was in need of hospitalization, and subsequently long term care. Petitioner contacted her assigned worker in Michigan on [REDACTED] and requested that her case be closed. In accordance with policy, the Department is required to act on a change within 15 workdays after becoming aware of the change. By the time the Department acted on the change, it was October 2015. Because the change was processed in October, the effective date of the change was [REDACTED].

Under Department policy, an adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). BAM 220 (July 2015), p. 2. Adequate notice is given when recipient or his legal guardian or authorized representative requests in writing that the case be closed. BAM 220, p. 3. While it is unclear whether Petitioner's request was in writing, the reason cited for the failure to immediately close the case was that Petitioner made the request too late in the month. Additionally, there is no evidence that Petitioner was instructed to submit the request in writing.

An immediate negative action occurs when the negative action requires adequate notice based on the eligibility rules. Adequate notice means that the action taken by the Department is effective on the date taken. BAM 220, p. 11. In this case, the Health Care Coverage Determination Notice was sent on [REDACTED] and as such, that is the proper effective date of the 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 the Department did not

act in accordance with Department policy when it failed to close Petitioner's MA benefits effective [REDACTED].

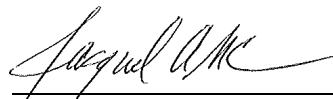
DECISION AND ORDER

Accordingly, the Department's decision 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. Close Petitioner's MA benefits effective [REDACTED]; and
2. Notify Petitioner in writing of its decision.

JM/hw



Jacquelyn A. McClinton
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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]