RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[redacted]

Date Mailed: June 9, 2016
MAHS Docket No.: 16-004766
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 May 19, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. [redacted] appeared with Petitioner as a witness. [redacted] served as an Interpreter for 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 April 1, 2016 for failure to return the 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 MA recipient.

2. On [redacted], the Department sent Petitioner a Redetermination which was required to be completed and returned on or before [redacted].

3. Petitioner mailed the completed Redetermination shortly after receipt.

4. The Department did not receive Petitioner's completed Redetermination.

5. On [redacted], the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that her MA benefits would close effective [redacted].

6. On [redacted], Petitioner 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, the Department is required to periodically redetermine or renew an individual's eligibility for active programs. The redetermination process includes thorough review of all eligibility factors. BAM 21 (January 2016), p. 1.

The Department testified it mailed a Redetermination to Petitioner on [redacted]. The Redetermination was required to be completed and returned on or before [redacted] The Department indicated that because it did not receive the Redetermination by the due date, it mailed Petitioner a Health Care Coverage Determination Notice notifying her that her MA benefits would close effective [redacted].

Petitioner acknowledged that she received the Redetermination. Petitioner testified that she returned the completed Redetermination by mail within a few days of receipt. Petitioner's testimony is found credible as she was able to clearly articulate the approximate date in which she mailed the Redetermination and the method by which she mailed the Redetermination.

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). While it is possible that there was an issue in transport; it is also possible that the document could have been lost or misplaced upon receipt. As such, it is found that the presumption that the Redetermination was properly and timely mailed to the Department has not been rebutted.

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 closed Petitioner's MA benefits for failure to return the Redetermination.

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. Reinstate Petitioner's MA benefits effective [redacted];
2. Issue supplements Petitioner was entitled to receive but did not, effective [redacted] and
3. 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]

Petitioner

[redacted]