



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: July 22, 2016
MAHS Docket No.: 16-007757
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 July 21, 2016, from Lansing, Michigan. The Petitioner, [REDACTED], appeared and testified. The Department of Health and Human Services (Department) was represented by Family Independence Specialist, [REDACTED].

ISSUE

Did the Department properly take action to close the Petitioner's Medical Assistance (MA) case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing recipient of MA, and she has availed herself of assistance from the Department since 2006.
2. On March 14, 2016, the Department asserts that it sent the Petitioner a Redetermination for MA case.
3. The Petitioner failed to return the Redetermination form by the due date of April 1, 2016.

4. On May 20, 2016, the Department sent the Petitioner a Health Care Coverage Determination Notice informing the Petitioner that her MA case would close as of July 1, 2016.
5. On June 9, 2016, the Department received the Petitioner's written hearing request protesting 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, Bridges Administrative Manual (BAM) 210 (2016) p. 1, provides that a complete redetermination is required at least every 12 months. For Medicaid, benefits stop at the end of the benefit period, unless a renewal is completed and a new benefit period is certified. Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. BAM (2016) p. 7.

The Department worker at the hearing testified that the redetermination is mailed from Lansing, after being generated by the computer. There was no one present at the hearing to testify that they personally mailed the redetermination to the Petitioner. Lastly, the exhibits that the Department relies on in this case do not even show the entire and complete document and this Administrative Law Judge takes that into account when giving weight to the evidence.

The Petitioner testified that she never received the redetermination packet. She received her mid-certification for her Food Assistance Program (FAP) case, and she returned it immediately. This testimony is supported by the documentary evidence in the record. The Petitioner testified that she likes to complete her forms and submit her verifications online. The Petitioner testified that in all the time that she has been receiving assistance since 2006, her cases have never suffered negative action due to her failure to submit information requested by the Department.

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).

The Petitioner's testimony is found to be credible and persuasive as it is logical, consistent in detail and essentially not refuted by anyone who would have personal knowledge of it. As such, this Administrative Law Judge concludes that the Petitioner has successfully rebutted the presumption of receipt of the Redetermination. If the Petitioner does not receive the Redetermination, she cannot complete and return it.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it took action to close the Petitioner's MA case.

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, INCLUDING ISSUING A NEW ELIGIBILITY DETERMINATION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine the Petitioner's eligibility for MA back to July 1, 2016, and
2. Issue the Petitioner a new eligibility notice, and
3. Issue the Petitioner any supplement she may thereafter be due.



SH/nr

Susanne E. Harris
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]