



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR



Date Mailed: April 7, 2016  
MAHS Docket No.: 16-002880  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Darryl Johnson

### **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 April 6, 2016, from Lansing, Michigan. The Petitioner was represented by herself; her daughter, [REDACTED] also appeared with her. The Department of Health and Human Services (Department) was represented by Hearings Facilitator [REDACTED] and Family Independence Specialist [REDACTED].

### **ISSUE**

Did the Department properly close Petitioner's Medicaid Cost Share Medical Assistance (MA)?

### **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 on-going recipient of MA.
2. On January 11, 2016 the Department mailed to her a Redetermination form with notice that she was scheduled to have a telephone interview on February 1, 2016.
3. Petitioner returned the Redetermination via U.S. Mail by mailing it at her local post office on January 26, 2016.

4. Petitioner waited by her phone on February 1, 2016, expecting to hear from her case worker, but the call never came.
5. After an hour passed, Petitioner called her worker and was told that the interview did not take place because the Department had not received her Redetermination packet.
6. The Department did not log that the packet had been received (if, in fact, it was received) and, on February 17, 2016, the Department mailed a Health Care Coverage Determination Notice (Exhibit 1 Page 12) informing her that her MA would be closed as of March 1, 2016 because the packet had not been received.
7. Petitioner made multiple phone calls to the Department during the month of February, leaving messages for her worker, without any of her calls being returned.
8. On February 26, 2016, Petitioner requested a hearing.
9. On March 2, 2016, Petitioner reapplied for MA and was approved, but it can take up to 120 days for Petitioner's cost share adjustments to be caught up, and she will have been without benefits for the month of March.

### **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.

In this case, Petitioner testified convincingly that she mailed her Redetermination packet in time for it to be received before her telephone interview. She has reapplied and was approved, so the evidence supports a finding that she would have been approved if the Department had received and processed her packet correctly. Somewhere, somehow, the packet was lost between the post office and the individual responsible for processing the packet and connecting it with Petitioner's case. It is known that papers have, from time-to-time, been misplaced or are attached to the wrong client by the

Department. The issue then becomes who is responsible for the misdirection of the paperwork.

In BAM 210 (1/1/16), p. 1 with respect to MA, “An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220.”

An in-person interview is not required as a condition of MA eligibility. BAM 210 p 3. Medicaid benefits are not automatically terminated for failure of the Department to record receipt of the renewal packet. Id at 11.

The local office must assist clients who need and request help. BAM 115 (1/1/16) p 2. If a client telephones, the Department is to respond by a return phone call within one workday, or send a letter within five workdays.

In this case, Petitioner informed the Department that she had mailed her packet. For some inexplicable reason, the packet was lost. Petitioner requested help, repeatedly. The Department, instead of providing assistance, just waited for the packet to show up. When it wasn't made a part of her file, the Department closed her MA instead of assisting her.

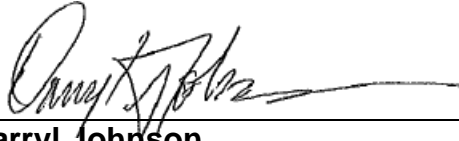
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's MA.

### **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. The Department shall initiate a redetermination as to whether Petitioner is entitled to MA benefits as provided by applicable policies, effective March 1, 2016.



DJ/mc

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**Darryl Johnson**  
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]