



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: November 18, 2016
MAHS Docket No.: [REDACTED]
Agency No.: [REDACTED]
Petitioner: [REDACTED]
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

**ORDER OF DISMISSAL PURSUANT TO
IMPROPER NOTICE OF HEARING**

Upon the request for a hearing by the Michigan Department of Health and Human Services (MDHHS), this matter is before the undersigned administrative law judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. The hearing was scheduled for [REDACTED], from Detroit, Michigan. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], regulation agent with the Office of Inspector General. Respondent did not appear.

On [REDACTED], MDHHS requested a hearing to establish Respondent received an overissuance of benefits due to an intentional program violation (IPV). Though evidence of an overissuance and IPV were presented on the record, a procedural obstacle prevents an outcome on the merits.

MDHHS presented unverified but credible testimony that a mailing address for Respondent was obtained from a Secretary of State database on [REDACTED]. MDHHS credibly testified that an Intentional Program Violation Repayment Agreement was sent to Respondent on [REDACTED], to the address obtained from the Secretary of State database. MDHHS testimony credibly indicated there was no indication that Respondent did not receive the mailing.

On [REDACTED], the Michigan Administrative Hearing System mailed Respondent a Notice of Hearing. The address on the Notice of Hearing mirrored the address used by MDHHS. Respondent's Notice of Hearing was undeliverable and returned.

Consideration was given to deciding the case on its merits despite the lack of notice to Respondent. Holding an IPV hearing when a Respondent does not receive notice is

supported by federal law. If the notice [of hearing] is sent using first class mail and is returned as undeliverable, the hearing may still be held. 7 CFR 273.16 (e)(3)(i).

MDHHS sometimes requests IPV hearings against former clients with no current reporting address. In many occasions, MDHHS may have difficulty discovering the whereabouts of the client. Presumably, federal regulations are sympathetic in such occasions and give MDHHS lenience in tracking persons to a specific mailing address. An implied requirement of good faith and reasonable efforts is inferred within the federal regulation.

Presented evidence was indicative of good faith and reasonable efforts by MDHHS in obtaining the address. Presented evidence was less indicative of good faith or reasonable efforts in mailing the notice of hearing.

Respondent's Notice of Hearing was returned due to an "insufficient address." Mail returned for an "insufficient address" is consistent with a mailing error. It is not known if the Notice of Hearing address was written wrongly, MDHHS provided a faulty address, or if the United States Post Office erred in delivering the mail. Whichever party erred, the error should be corrected to allow for a proper mailing of Notice of Hearing before a hearing is held.

Based on the presented evidence, it is found that Respondent improperly failed to receive notice of the hearing. Accordingly, the MDHHS hearing request is properly **DISMISSED WITHOUT PREJUDICE**.

CG/hw



Christian Gardocki
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]

[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

Respondent

[REDACTED]
[REDACTED]
[REDACTED]