



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: October 3, 2016
MAHS Docket No.: 16-009624
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 September 28, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], family independence manager and [REDACTED], family independence specialist. [REDACTED] appeared as an observer for the Department.

ISSUE

Did the Department properly close Petitioner's MA benefits for failing 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 is an ongoing MA recipient.
2. On [REDACTED], the Department sent Petitioner a Redetermination which was due to be completed and returned by [REDACTED].
3. Petitioner did not return the Redetermination by the due date.

4. On [REDACTED], the Department closed Petitioner's MA benefits for failing to return the Redetermination.
5. 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 210 October 2015), p. 1. In this case, the Department indicated that it mailed a Redetermination to Petitioner on [REDACTED]. The Redetermination was required to be completed and returned by [REDACTED].

The Department testified that it did not receive the Redetermination by the due date. The Department further testified that it should have closed Petitioner's MA benefits in 2015 after it did not receive the Redetermination, but due to an error, allowed Petitioner's MA benefits to continue until [REDACTED]. The Department indicated that because Petitioner failed to return the Redetermination, it sent Petitioner a Health Care Coverage Determination Notice on [REDACTED], which informed Petitioner that effective [REDACTED], her MA benefits would close.

Petitioner testified that she did not receive the Redetermination in the mail. It should be noted that Petitioner acknowledged receipt of the Health Care Coverage Determination Notice dated [REDACTED]. Petitioner also received the Request for Hearing as evidenced by her appearance at the hearing. Petitioner also stated that she appeared for the Pre-Hearing Conference, for which a notice would have been sent prior to the date of the conference. As such, it is found that Petitioner also received the Pre-Hearing Conference Notice. Each of the aforementioned documents, were sent to the same address which Petitioner confirmed as her correct mailing address.

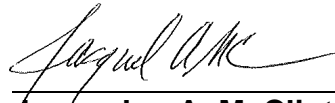
The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). As previously stated, Petitioner received other documents from the Department. Additionally, the Department testified that the mail was not returned as undeliverable. As such, it is found that Petitioner has failed to rebut the presumption that the Redetermination was received. Petitioner may re-apply for benefits.

DECISION AND ORDER

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 acted in accordance with Department policy when it closed Petitioner's MA effective [REDACTED], [REDACTED] for failure to return the Redetermination.

Accordingly, the Department's decision is **AFFIRMED**.

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]

DHHS

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]