



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: January 5, 2017
MAHS Docket No.: 16-016818
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist; and [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly close the Petitioner's Medical Cost Sharing Program (MSP) Benefits?

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 the MSP (ALMB).
2. The Department sent the Petitioner a Redetermination on [REDACTED], regarding her MSP benefits. Exhibit A.
3. The Department did not receive a return of the Redetermination form.
4. The Department issued a Health Care Coverage Determination Notice on [REDACTED], closing the Petitioner's MSP benefits for failure to return the Redetermination, effective [REDACTED]. Exhibit C.

5. On [REDACTED], the Petitioner requested a timely hearing 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.

In this case, the Department closed the Petitioner's MSP benefits when it did not receive a return of a Redetermination for the MSP benefits. The Petitioner received ALMB cost-share benefits, which reimbursed the Medicare Part B premium. BEM 165, (October 1, 2016), p. 2. The Department sent the Redetermination to [REDACTED]. The Petitioner confirmed the address was correct at the hearing. The Redetermination was dated [REDACTED]. Exhibit A. The Petitioner credibly testified that she did not receive the Redetermination and outlined in detail the problems she has occasioned with her mail delivery by the U.S. Postal Service, which included numerous complaints to the postal service and multiple mail delivery people, and misdelivered mail. Based upon entries in the Petitioner's electronic case file, the Petitioner has a record of promptly responding to the Department's requests for verification and documents as evidenced by the many documents and bank statements provided to the Department in [REDACTED]. Normally, failure to return a Redetermination when requested by the due date, results in case closure. BAM 201 and BAM 130 (October 1, 2016).

All Programs

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210 (October 1, 2016), p. 1.

Documents that are correctly addressed and mailed are presumed to be received, however the presumption of receipt may be rebutted by testimony that would demonstrate reasons why the mail may have not been received. Michigan decisional law provides:

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).

During the hearing, the Petitioner credibly testified to the troubles that she had with her mail and her testimony established that although properly mailed to the correct address, the Petitioner did not receive the Redetermination document. Therefore, it is determined that the Department improperly closed the Petitioner's MSP benefits for failure to complete the Redetermination as she never received it to be completed and had no notice that it was required to be returned by her. Therefore, it is determined that the Department improperly closed the Petitioner's MSP case for failure to return the Redetermination.

DECISION AND ORDER

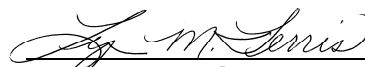
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department **did not** act in accordance with Department policy when it closed the Petitioner's Medical Cost Share program benefits due to failure to return the Redetermination.

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 reinstate the Petitioner's Medical Cost Sharing Program benefits as of the date of closure and reprocess the Redetermination to determine Petitioner's eligibility.
2. The Department shall issue a supplement to the Petitioner for MSP benefits, if the Petitioner is otherwise eligible in accordance with Department policy.
3. The Department shall provide Petitioner written notice of its determinations regarding the Medical Cost Sharing redetermination reprocessing.

LMF/jaf



Lynn M. Ferris

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]

Via email

[REDACTED]