



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 25, 2017
MAHS Docket No.: 16-017665
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 January 9, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) eligibility.

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 ongoing MA benefit recipient.
2. On [REDACTED], a person reporting to be Petitioner verbally reported to MDHHS a desire to cease MA eligibility
3. On [REDACTED], MDHHS initiated termination of Petitioner's MA eligibility, effective December 2016, based on Petitioner's apparent verbal request to initiate MA benefit termination.
4. On [REDACTED], Petitioner requested to MDHHS a desire to continue MA benefits.

5. On [REDACTED], Petitioner requested a hearing to dispute the termination of MA benefits.

CONCLUSIONS OF LAW

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of MA benefits to be effective December 2016. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-4) dated [REDACTED]. The stated reason for closure was Petitioner's verbal request for closure.

It was not disputed that MDHHS can initiate a termination of benefits based on a client's request. It was disputed whether Petitioner made such a request.

It was not disputed Petitioner's MDHHS specialist called Petitioner's cell phone on [REDACTED]. Petitioner testified that her cell phone was charging when MDHHS called. Petitioner testified that her roommate's girlfriend answered the telephone, and as a joke, informed Petitioner's specialist to close her case.

Petitioner's testimony was theoretically possible, though the story sounded improbable. Even if the story was accurate, MDHHS cannot not be faulted for relying on the statements of a person answering Petitioner's telephone. It is found MDHHS appropriately initiated termination of Petitioner's MA eligibility.

Petitioner testified she followed-up with MDHHS on [REDACTED]. Petitioner testified she left her specialist a voicemail explaining that she did not want her case closed. Petitioner's testimony was supported by documentation.

During the hearing, MDHHS obtained telephone records from Petitioner's specialist. MDHHS testimony conceded the telephone records verified two calls from Petitioner to her specialist on [REDACTED]. MDHHS further conceded both telephone calls went to voicemail.

It is not certain that Petitioner left voicemails for her specialist on [REDACTED] expressing a desire to continue MA benefits. Given presented evidence, it is probable

that Petitioner expressed such a desire. MDHHS apparently did not respond to Petitioner's voicemails as Petitioner's MA eligibility terminated as scheduled.

There are two types of written notice: adequate and timely. BAM 220 (July 2016), p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pending). *Id.* A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. *Id.*, p. 4.

It was not disputed the present case concerns timely notice. Petitioner's statements to MDHHS requesting continued MA eligibility were soon enough following the notice mailing that MDHHS should have stopped the pending closure of Petitioner's MA eligibility. The failure by MDHHS to cease the MA benefit termination is reversible error.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's MA eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's MA eligibility, effective December 2016, subject to the finding that Petitioner complied with the basis for termination; and
- (2) Issue a supplement for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

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]

Petitioner

[REDACTED]