



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.: 16-019009
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 [REDACTED] the Petitioner's Authorized Hearing Representative (AHR). The Petitioner also appeared and testified. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close the Petitioner Medical Assistance, (MA) Medicare Savings Program, (MSP) and Food Assistance Program (FAP) for failure to complete 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. The Petitioner was an ongoing recipient of MA, MSP and FAP benefits.
2. The Petitioner was sent a Redetermination by the Department on [REDACTED] [REDACTED] scheduling a telephone appointment on [REDACTED]. Exhibit 1.
3. The Petitioner did not receive a call from her caseworker on [REDACTED].

4. The Department sent the Petitioner a Notice of Missed Interview on [REDACTED] [REDACTED] advising the Petitioner she must reschedule her interview before [REDACTED]. Exhibit 4.
5. The Department sent the Petitioner a Health Care Coverage Determination Notice (HCCDN) dated [REDACTED], advising the Petitioner that her MA was closed effective [REDACTED]. Exhibit 3.
6. The Petitioner's food assistance closed effective [REDACTED] for failure to complete the redetermination.
7. The Petitioner requested a timely hearing on [REDACTED] 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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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 FAP, MA and MSP due to her alleged failure to complete the Redetermination sent to her on [REDACTED], due [REDACTED]. The Petitioner credibly testified at the hearing to the following. The Petitioner testified that she returned the Redetermination in a self-addressed envelope received with the Redetermination with the Department's address already on it. She deposited the Redetermination letter in a mailbox in [REDACTED] Michigan, outside of her daughter's apartment complex office. The Petitioner further credibly testified that she returned the Redetermination prior to the [REDACTED], due date and scheduled

interview time. On the date of the interview, she did not receive a call from her caseworker, as scheduled. In addition, the Petitioner received the Notice of Missed Interview and tried to reschedule and was informed by her caseworker to reapply. In addition, the HCCDN sent, closing the Petitioner's MA and MSP, conflicted with the Notice of Missed Interview, which allowed the Petitioner to reschedule by [REDACTED]. It also appears that the Petitioner may have been misinformed by the Department having been advised to reapply rather than complete the Redetermination.

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). The Petitioner testified to the proper addressing of the letter as it was the Department's envelope that she used to return the Redetermination. In addition, the Petitioner testified that she deposited the mail in a mail box, thereby satisfying the proper mailing. Therefore, it is presumed the Redetermination was received. The fact that the Department did not have a record of receipt based upon the facts presented and the Department's honesty in saying sometimes some mail may not be received, is sufficient to find that the Department received the Petitioner's Redetermination and is required to reinstate the Petitioner's FAP, MA and MSP case so that a Redetermination can be processed.

DECISION AND ORDER

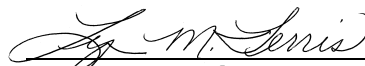
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department **did not** act in accordance with Department policy when it closed the Petitioner's MA, FAP and MSP case for failure to complete the redetermination.

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 and reprocess the Petitioner's Redetermination for MA, MSP and FAP case and determine eligibility for these benefits.
2. The Department shall provide the Petitioner notice of its determination.

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]

Authorized Hearing Rep.

[REDACTED]

[REDACTED]