



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: June 12, 2017
MAHS Docket No.: 17-004643
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 May 16, 2017, from Lansing, Michigan. The Petitioner was represented by his Authorized Representative, [REDACTED] [REDACTED] [REDACTED] [REDACTED] appeared and testified for the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Eligibility Specialist. [REDACTED] [REDACTED] AP Supervisor, also appeared. Department Exhibit 1, pp. 1-25 was received and admitted without objection. Petitioner Exhibit A pp. 1-2 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) for failing to return verifications?

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 a recipient of MA.
2. On March 14, 2016, a Redetermination packet with an April 1, 2016, due date was sent to Petitioner at his former address. (Dept. Ex.1, pp. 13-18)

3. On April 18, 2016, a Health Care Coverage Determination Notice was sent to Petitioner's former address informing him that his MA case would close effective April 30, 2016. (Dept. Ex.1, pp. 19-22)
4. On March 29, 2017, Petitioner requested hearing contesting the closure of MA benefits.
5. The facility where Petitioner resides continued to bill Medicaid and those bills were paid in the months following the April 30, 2016, closure.
6. Petitioner never received the Redetermination forms or the Health Care Coverage Determination sent to his former address in March and April 2016.
7. Petitioner's Authorized Representative signed on as Authorized Representative in March 2015 and should have been sent all notices for Petitioner after that date. (Petitioner Exhibit A., p.1)

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.

Medicaid

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times.

At application, redetermination, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.
- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.
- Every effort by the department was made to assist the client in obtaining verifications.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date.

Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day.

Send a case action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed.

Only **adequate** notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits. BAM 130(January 2016)

Granting a Hearing All Programs

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
 - Reduction in the amount of program benefits or service.
 - Suspension or termination of program benefits or service.
 - Restrictions under which benefits or services are provided.
 - Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. BAM 600 (October 2015)

In this case, Petitioner's Authorized Representative signed on as Authorized Representative in March 2015. Petitioner signed another appointment on October 2, 2015, this was provided by the Petitioner's Authorized Representative at hearing. (Petitioner Exhibit A, p.1) On March 14, 2016, a redetermination packet was sent to Petitioner at his former address [REDACTED]. The manager of the home where Petitioner formerly resided informed Petitioner's case worker, [REDACTED], in June 2015 that Petitioner was moving to [REDACTED]. Other residents at that home also reported their change of address on that date. Petitioner's change of address was not processed, although the change of address for other residents at that address were processed. The Department's failure to process

Petitioner's change of address caused the Department to send the redetermination packet to the wrong address. In addition, the redetermination packet should have been sent to Petitioner's Authorized Representative and it was not. Therefore, the Department's closure for failing to return verifications was improper and incorrect. BAM 130

The Department raised issues with regard to the timeliness of Petitioner's request for hearing. Petitioner's MA benefits remained active from May 2016 through March 2017. Petitioner continued to have coverage for the costs related to his stay at the facility where he resides and for other medical expenses. If Petitioner did not have actual notice of the April 30, 2016, closure and he was given numerous indications that he remained active for MA it is understandable why he did not request a hearing within 90 days of the purported April 30, 2016, closure. Petitioner's request for hearing was within 90 days of when he stopped being active for MA. Therefore, Petitioner's hearing request is found to be timely. BAM 600

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it close Petitioner's MA case for failing to return redetermination forms.

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. Reinstate Petitioner's MA case going back to the date of closure.

AM/mc



Aaron McClintic

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]

Counsel for Petitioner

[Redacted]

Petitioner

[Redacted]