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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

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Date Mailed: June 13, 2017
MAHS Docket No.: 17-005609
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 ██████████ ██████████ from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist; and ██████████, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's son (Child A) Medical Assistance (MA) benefits effective ██████████?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Child A was an ongoing recipient of MA benefits.
2. Petitioner's household consists of herself, Child A (minor), and ██████████ (Child A's father) (hereinafter referred to as "living together partner").
3. Petitioner is employed at ██████████ ██████████. [Exhibit A, pp. 15-16.]
4. The living together partner is employed with the State of Michigan. [Exhibit A, pp. 11-14.]

5. On [REDACTED], the Department sent Petitioner a Wage Match Client Notice (DHS-4638) (wage match) requesting verification of the living together partner's employment, which was due back by [REDACTED]. The wage match was sent to Petitioner's prior address at "[REDACTED]" (hereinafter referred to as "address 1"). [Exhibit A, pp. 1-2.]
6. Petitioner alleged that she never received the wage match.
7. The Department did not receive the wage match for the living together partner by [REDACTED].
8. On [REDACTED], the Department sent Petitioner a Redetermination (DHS-1010) to address 1; and it was due back by [REDACTED], but policy allows her to submit the form by the end of the benefit period, which was [REDACTED]. [Exhibit A, pp. 3-10.]
9. Petitioner received the Redetermination and submitted it to the Department on [REDACTED]. Petitioner reported on the Redetermination that her address was "[REDACTED]" (hereinafter referred to as "address 2"). Petitioner included her and the living together partner's paystubs with the Redetermination. [Exhibit A, pp. 3-16.]
10. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) informing her that her and Child A's MA benefits closed effective [REDACTED], because the wage match for Petitioner's employment due [REDACTED] and the living together partner's employment due [REDACTED] were not returned. [Exhibit A, pp. 17-20.]
11. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 23-24.]

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.

Preliminary matters

In this case, Petitioner filed a hearing request to dispute the closure of her and Child A's MA benefits effective [REDACTED]. [Exhibit A, pp. 23-24.] During the hearing, it was discovered that Petitioner reapplied for MA benefits for herself and Child A in [REDACTED]. As a result of the application, Petitioner was found eligible for MA benefits effective [REDACTED], which resulted in no lapse in coverage. [Exhibit B, p. 1.] As such, Petitioner's hearing request concerning her MA benefits is DISMISSED because her issue has been resolved. See BAM 600 (April 2017), pp. 1-7. However, the Department indicated that Child A was not found eligible for MA benefits with the subsequent application. The undersigned Administrative Law Judge (ALJ), though, lacks the jurisdiction to address the denial of Child A's MA benefits because it occurred subsequent to the hearing request. Petitioner can file another hearing request to dispute Child A's subsequent MA denial. BAM 600, p. 6, (The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days). Nevertheless, the undersigned does have the jurisdiction to address the closure of Child A's MA benefits effective [REDACTED], which is discussed below:

Child A's MA benefits

The Michigan Department of Health and Human Services (MDHHS) submits client Social Security Numbers to the Michigan Talent Investment Agency (TIA) quarterly to be cross-matched with the work history records submitted by Michigan employers. BAM 802 (April 2017), p. 1. This information is compared to the client's gross earnings record in Bridges. BAM 802, p. 1. Specialists receive one task and reminder listing all the matches for the quarter when there is a significant discrepancy between TIA and MDHHS records. BAM 802, p. 1. The task and reminder is removed when all matches have been disposed of for the quarter. BAM 802, p. 1. Bridges also compiles the wage match report, identifying overdue and disposed wage matches by county, unit, or other. BAM 802, p. 1. This report is available under the left navigation inquiry/wage match reports. BAM 802, p. 1.

The Department requests verification of the wage match earnings by generating a DHS-4638, Wage Match Client Notice, from Bridges. BAM 802, p. 2. The DHS-4638 automatically gives the client 30 days to provide verification. BAM 802, p. 2.

When income from the wage match is verified and is continuing, make the appropriate changes in Bridges, then run Eligibility Determination Benefit Calculation (EDBC) to reduce or close the benefits. BAM 802, p. 2. If verifications are not returned by the 30th day, case action will need to be initiated to close the case in Bridges. BAM 802, p. 2. If the client reapplies, the date the client reapplies determines if the wage match notification must be returned before processing the new application. BAM 802, p. 2.

Wage match information must be resolved within 45 calendar days of receiving the wage match task and reminder. BAM 802, p. 3. When a match is not disposed of within 45 days, the task and reminder is escalated to the specialist's supervisor. BAM 802, p. 3.

In this case, the Department sent to Petitioner's address 1 a wage match on [REDACTED], which requested verification of the living together partner's employment. [Exhibit A, pp. 1-2.] The wage match was due back by [REDACTED] [Exhibit A, pp. 1-2.] The first page of the wage match requested to return the completed form or paystubs for the last 30 days to the specialist. [Exhibit A, p. 1.] The second page of the wage match requested income information from [REDACTED]. [Exhibit A, p. 2.] The Department did not receive the requested wage match for the living together partner by [REDACTED].

In response, Petitioner testified that she never received the wage match. At the time the wage match was generated, she testified she was already residing at address 2. She reported that she moved from address 1 to address 2 in [REDACTED]. Petitioner could not recall if she informed the Department that she moved to address 2. She testified that her mail was being forwarded. She testified that she did receive the Redetermination that was also sent to address 1. Petitioner did return the Redetermination and reported her new address being address 2. This evidence shows that the first notification the Department received of her new address was on [REDACTED] [Exhibit A, pp. 3 and 10.]

Based on the above information, the undersigned finds that Petitioner failed to rebut the presumption of proper mailing. 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). In this case, the undersigned finds that the Department provided sufficient evidence to show that it sent Petitioner the wage match to the proper address at the time, which was address 1. The evidence established that Petitioner failed to report her change of address timely and when she did, it was reported after the date the wage match was sent to her. Nevertheless, the undersigned still finds that closure of Child A's MA benefits was improper.

On [REDACTED], the Department sent Petitioner a determination notice informing her that that Child A's MA benefits closed effective [REDACTED], because the wage match for Petitioner's employment due [REDACTED] and the living together partner's employment due [REDACTED] were not returned. [Exhibit A, pp. 17-20.] However, the undersigned discovered that Petitioner had provided her and the living together partner's employment verifications prior to the case closure. On [REDACTED], Petitioner submitted the Redetermination, which included her and the living together partner's paystubs. [Exhibit A, pp. 11-16.] The Department argued that the paystubs for the living together partner were insufficient because the wage match specifically ask for verifications dating back to [REDACTED] [Exhibit A, p. 2.] However, the undersigned disagrees. First off, one of the closure reasons for Child A's MA benefits

included not receiving the wage for Petitioner's employment due [REDACTED]. [Exhibit A, p. 17.] However, the Department failed to present any evidence showing it sent Petitioner a wage match concerning her employment. Policy states that the Department requests verification of the wage match earnings by generating a DHS-4638, Wage Match Client Notice, from Bridges. BAM 802, p. 2. The Department failed to present any evidence showing that it sent her a wage match requesting verification of her employment earnings from [REDACTED]. As such, the undersigned finds that the Department failed to satisfy its burden of showing that it properly closed Child A's MA benefits effective [REDACTED], in accordance with Department policy. BAM 802, p. 2.

Additionally, the undersigned finds the verification of the living together partner's paystubs submitted on [REDACTED], were sufficient to meet the requests of the wage match generated on [REDACTED]. The wage match specifically states to "[r]eturn the completed form *or* paystubs for the last 30 days to your specialist..." [Exhibit A, p. 1, (emphasis added).] The undersigned emphasizes the word "or" because she met the wage match requirements by submitting 30 days of the living together partner's paystubs. [Exhibit A, p. 11-14.] And even if she did not submit all 30-days, the Department could have used the best available information provided to make an eligibility determination for Child A's MA benefits. See BAM 130 (April 2017), p. 3. Now, the undersigned acknowledges that the paystubs were not returned by the wage match due date of [REDACTED]. However, the paystubs for Petitioner and the living together partner were returned prior to the negative action effective date.

A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (April 2017), p. 1. The negative action date is the day after the timely hearing request date on the Department's notice of case action. BAM 220, p. 11. The timely hearing request date is the last date on which a client can request a hearing and have benefits continued or restored pending the hearing. BAM 220, p. 11. It is always the day before the negative action is effective. BAM 220, p. 11. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. BAM 220, p. 12. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the Department's action. BAM 220, p. 12.

If the requirement is met before the negative action effective date, then the Department will enter the information the client provided to meet the requirement that caused the negative action. BAM 220, p. 13. The Department will then delete the negative action by reactivating the program and run eligibility and certify the results. BAM 220, p. 13. The Department will recalculate benefits based on the information and dates entered in the system. BAM 220, p. 13.

In the present case, Petitioner's Request for a Hearing stated that Petitioner can submit a timely hearing request on or before [REDACTED]. [Exhibit A, p. 20 and BAM 220, p. 11.] Thus, [REDACTED], is the negative action date, which is the date after the timely hearing request date. BAM 220, p. 11. Petitioner submitted her and the living together partner's employment verifications on [REDACTED]. [Exhibit A, pp. 11-16.]

Therefore, Petitioner met the wage match requirement before the [REDACTED], negative action date. BAM 220, pp. 11-13.

Based on the determination notice and because Petitioner submitted the wage match requirements before the [REDACTED], negative action date, the Department improperly closed Child A's MA benefits effective [REDACTED], ongoing. The Department should have deleted the negative action and run Child A's MA eligibility. See BAM 220, pp. 11-13.

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 Child A's MA benefits effective [REDACTED].


Accordingly, the Department's MA 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 Child A's MA case as of [REDACTED];
2. Redetermine Child A's MA eligibility for [REDACTED], ongoing;
3. Issue supplements to Child A for any MA benefits he was eligible to receive but did not from [REDACTED], ongoing; and
4. Notify Petitioner of its decision.

IT IS ALSO ORDERED that Petitioner's hearing request concerning her MA benefits is **DISMISSED**.

EJF/jaf



Eric J. Feldman
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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
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