



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 20, 2017
MAHS Docket No.: 17-005814
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on June 20, 2017, from Lansing, Michigan. The Petitioner was represented by [REDACTED] Hearing Facilitator. The Department was represented by her mother [REDACTED].

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (MA) and the Medicare Savings Program?

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 recipient of Medical Assistance (MA) and Medicare Savings Program benefits.
2. On August 1, 2016, the Department receive Petitioner's application for Medical Assistance (MA) (DCH-1426) listing her mailing address as [REDACTED]. Exhibit A, p 5.
3. On March 4, 2017, the Department sent Petitioner a Redetermination (DHS-1010) form to her mailing address of record with an April 4, 2017, due date. Exhibit A, p 7.
4. On April 17, 2017, the Department notified Petitioner that it would close her Medical Assistance (MA) as of May 1, 2017. April 17, 2017.

5. On April 26, 2017, the Department received Petitioner's request for a hearing protesting the closure of Medical Assistance (MA) and Medicare Savings Program benefits.

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.

There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2015), pp 2-3.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2016), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (January 1, 2016), pp 1-9.

Petitioner was an ongoing MA and MSP recipient when the Department initiated a review of her eligibility for ongoing benefits by sending her a Redetermination (DHS-1010) form to her mailing address of record with an April 4, 2017, due date. When the Redetermination form was not received by the Department in a timely manner, her MA and MSP benefits closed.

Petitioner's representative testified that she did not receive the Redetermination form.

While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, as it was here, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

In this case, the Department presented substantial evidence that it mailed Petitioner a Redetermination (DHS-1010) addressed to her current mailing address of record, and Petitioner failed to rebut the presumption of its receipt.

Therefore, the closure of MA and MSP benefits as of May 1, 2017, was a proper application of Department policy.

However, it was not disputed that MSP benefits closed as of April 1, 2017. Since then, Respondent reapplied in May of 2017. Petitioner is potentially eligible for retroactive MA benefits from May 1, 2017, and ongoing (assuming she continues to meet all of the eligibility criteria), but MSP benefits under the QMB category cannot be issued in the application month as directed by BEM 165. Petitioner does not dispute that she was receiving MSP benefits under the QMB category.

The Department has the burden of presenting evidence to establish that its actions were a correct application of its policies. In this case, the Department has failed to establish that it properly determined eligibility for MSP benefits in April of 2017. Therefore, the Department's actions for April cannot be upheld.

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 acted in accordance with Department policy when it closed Medical Assistance (MA) and Medicare Savings Program benefits as of May 1, 2017.

The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to issue Medicare Savings Program benefits for April of 2017.

DECISION AND ORDER

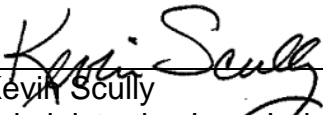
Accordingly, the Department's decision is AFFIRMED in part and REVERSED in part.

The closure of Medical Assistance (MA) and Medicare Savings Program benefits as of May 1, 2017, is **AFFIRMED**.

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:

Initiate a determination of the Petitioner's eligibility for **Medicare Savings Program** benefits from **April 1, 2017, through April 30, 2017**, in accordance with policy with adequate notice to Petitioner.

KS/nr



Kevin Scully
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]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]