



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 28, 2017
MAHS Docket No.: 17-006099
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 [REDACTED] [REDACTED] from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Representative.

ISSUE

Did the Department properly close Petitioner and her spouse's Medical Assistance (MA) coverage?

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 and her spouse, [REDACTED], were ongoing recipients of Transitional Medical Assistance (TMA) coverage.
2. On or about [REDACTED], Petitioner submitted a redetermination, which included verification of her spouse's [REDACTED] account, her [REDACTED] account, and other proofs (i.e., wages). [Exhibit A, pp. 4-7.]
3. The Department's system also showed that the spouse had an account with [REDACTED] but it did not receive such verification on [REDACTED].

4. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL), which requested proof of her spouse's wages, her loss of employment, and the spouse's checking account. Along with the VCL, the Department sent Petitioner a Verification of Assets for the spouse's bank account from "[REDACTED]" The verifications were due back by [REDACTED]. [Exhibit A, pp. 8-11.]
5. The Department received all of the necessary verifications, except for the spouse's bank account from [REDACTED]. [Exhibit A, p. 16.]
6. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying Petitioner that her MA benefits closed effective [REDACTED], due to her failure to submit her spouse's bank account and her spouse's MA benefits closed effective [REDACTED], because he was not eligible for the MA categories. [Exhibit A, pp. 13-16.]
7. Despite the determination notice effective closure dates, Petitioner and her spouse's MA coverage actually closed effective [REDACTED]
8. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 1-2.]

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2016), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2017), p. 1. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210, p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. Local offices must assist clients who need and request help to complete

applications, forms and obtain verifications; see Bridges Administrative Manual (BAM) 130, Obtaining Verification. BAM 210, p. 1.

For MA cases, verifications are due the same date as the redetermination/review interview. BAM 210, p. 16. When an interview is not required, verifications are due the date the packet is due. The Department allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. BAM 210, p. 16. If the tenth day falls on a weekend or holiday, the verification would not be due until the next business day. BAM 210, p. 16. MAGI Medicaid beneficiaries have 30 calendar days to return the pre-populated renewal form. BAM 210, p. 16. The Department gives timely notice of the negative action if the time limit is not met. BAM 210, p. 16.

In this case, there was no dispute that Petitioner submitted her Redetermination. However, this issue in this case was that the Department needed additional verifications after the submission of the Redetermination, which it contends that it did not receive.

On or about [REDACTED], Petitioner submitted a redetermination, which included verification of her spouse's [REDACTED] account and her [REDACTED] account. [Exhibit A, pp. 4-7.] The Department testified that its system also showed that the spouse had an account with [REDACTED], but it did not receive such verification on [REDACTED]. On [REDACTED], the Department sent Petitioner a VCL and a Verification of Assets for the spouse's bank account from [REDACTED] [Exhibit A, pp. 8-11.] The verifications were due back by [REDACTED]. [Exhibit A, pp. 8-11.] The Department did not dispute that it received all of the verifications, except for the spouse's bank account from [REDACTED] [Exhibit A, p. 16.] As such, the Department denied their MA coverage for failure to return assets. [Exhibit A, p. 17.]

In response, Petitioner testified that she did receive the VCL dated [REDACTED], but that she was not sure if she received the Verification of Assets dated [REDACTED]. She indicated that some of her mail comes late, but generally, she receives her mail. She testified that her spouse's [REDACTED] account closed on or about [REDACTED]. She testified that she did not previously inform her worker that the bank account at issue closed because she was unable to contact her caseworker (caseworker was not answering). During the period of the redetermination, she testified that she called and left voicemails for her caseworker to complete the redetermination interview and to say that she submitted her documents so that she would not be cut-off from benefits. The undersigned Administrative Law Judge (ALJ) did ask Petitioner if she was calling her caseworker to seek assistance in obtaining verifications, but Petitioner's responses seemed to indicate that she did not need such help. She also testified that she submitted all of the documents twice, once with the redetermination and again after receiving the VCL. She further testified that she did speak to her caseworker prior to the notice of case closure, but the caseworker did not make any mention of the [REDACTED] account or which verifications were missing.

In response, the Department testified that the VCL and Verification of Assets forms were mailed via central print, and it was not returned back as undeliverable from the United States Postal Service (USPS). The Department appeared to indicate that it did not receive the two submissions of her verifications as Petitioner alleged, it only received the initial verifications on [REDACTED].

Based on the above information and evidence, 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). The Department provided sufficient evidence to show that it sent Petitioner the VCL and Verification of Assets to her proper address in [REDACTED]. Furthermore, the evidence shows that Petitioner failed to submit her spouse's bank account verification from [REDACTED] by the [REDACTED], due date. [Exhibit A, pp. 8-11.] As such, Petitioner and her spouse were not eligible for MA benefits due to her failure to submit verification of the bank account in accordance with Department policy. BAM 210, p. 16.

Additionally, the undersigned would like to note that there were issues with determination notice issued on [REDACTED], which informed Petitioner and her spouse of their MA closures. [Exhibit A, pp. 13-15.] The first issue was that the determination notice stated that Petitioner's MA benefits closed effective [REDACTED] due to her failure to submit the spouse's bank account. [Exhibit A, p. 13.] This statement in the determination notice is proper because it has the correct effective closure date and denial reason. But, the Department testified that Petitioner's benefits actually closed effective [REDACTED] [REDACTED], which was improper. The second issue was that the determination notice stated that the spouse's MA benefits would close effective [REDACTED] [REDACTED] which it did, but it gave improper denial reasons; and the closure date was improper as well. Nevertheless, the undersigned finds the mistakes listed in the determination notice to be harmless error. Ultimately, Petitioner failed to submit the verifications by the due date; and therefore, their MA benefits should have closed effective [REDACTED] [REDACTED]. However, policy specifically states for MA verifications deadlines, the Department gives timely notice of the negative action if the time limit is not met. BAM 210, p. 16. This means that because the determination notice was issued on [REDACTED], their MA benefits should have closed effective [REDACTED] because this would be considered timely notice. See BAM 210, p. 16, and BAM 220 (April 2017), pp. 3-6. But, the Department testified that both of their MA coverages closed effective [REDACTED], which again, was improper.

Accordingly, the undersigned orders the Department to activate Petitioner and her spouse's MA coverage for [REDACTED], as they were entitled to benefits for that month. But they were not eligible for MA coverage effective [REDACTED] [REDACTED] ongoing, due to Petitioner's failure to submit the spouse's bank verification. Petitioner can reapply for benefits.

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 (i) the Department did not act in accordance with Department policy when it closed Petitioner and her spouse's MA benefits for [REDACTED]; and (ii) Petitioner and her spouse were not eligible for MA benefits effective [REDACTED], due to her failure to submit verification of the bank account.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to closure of the MA benefits effective [REDACTED], and **REVERSED IN PART** with respect to closure of the MA benefits from [REDACTED].

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. Activate Petitioner and her spouse's MA coverage for [REDACTED]
2. Issue supplements for Petitioner and her spouse's MA benefits for the period of [REDACTED]; and
3. Notify Petitioner of its decision.

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]
[REDACTED]
[REDACTED]
[REDACTED]