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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: July 17, 2017
MAHS Docket No.: 17-007284
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; 42 CFR 438.400 to 438.424; 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 represented by the Authorized Hearing Representative (AHR)/Counsel, ██████████. Petitioner was present for the hearing and her witness, ██████████, was also present and provided testimony. The Department of Health and Human Services (Department) was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) and Medicare Savings Program (MSP) 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. Petitioner was an ongoing recipient of MA and MSP coverage.
2. On ██████████, the Department sent Petitioner a redetermination (DHS-1010), which was due back by ██████████.
3. Petitioner received the redetermination; however, during the redetermination process, she was hospitalized and thereafter resided at the ██████████ until she was returned home on or about ██████████.

4. The Department indicated that it never received the redetermination by the [REDACTED] due date or by the end of the benefit period, which was [REDACTED].
5. The AHR indicated that the [REDACTED] [REDACTED] [REDACTED] e-mailed Petitioner's redetermination to her caseworker/Department on [REDACTED], and [REDACTED] [REDACTED] [Exhibit A, pp. 3 and 30.]
6. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination (determination notice) notifying her that she was not eligible for MA and MSP coverage effective [REDACTED], because she failed to return her redetermination. [Exhibit B, pp. 1-4.]
7. On [REDACTED], the Department received the first page of the redetermination form and additional documentation but did not receive the entire redetermination. [Exhibit A, pp. 1-11.]
8. On [REDACTED], Petitioner's AHR filed a hearing request, protesting the Department's action. [Exhibit A, pp. 12-13.]

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 local office must assist clients who ask for help in completing forms, gathering verifications, and/or understanding written correspondence sent from the department. BAM 105, p. 15. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105, p. 15.

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.

For Medicaid, a redetermination is an eligibility review based on a reported change. BAM 210, p. 1. A renewal is the full review of eligibility factors completed annually. BAM 210, p. 1. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1.

For the Modified Adjusted Gross Income (MAGI) Medicaid passive renewal process, MDHHS must use information currently available in STATE OF MICHIGAN systems to renew eligibility. BAM 210, p. 1. Do not request information from the beneficiary if the information is already available to MDHHS. BAM 210, p. 1. This includes completing a renewal form. BAM 210, p. 1. Individuals must be able to select how many years to opt in to allowing MDHHS to access tax information to determine continuing eligibility, up to a maximum of 5 years. BAM 210, p. 1. Individuals must also have the opportunity to opt out of allowing the use of tax information. BAM 210, p. 1. Do not include individuals in the passive renewal process if this question is not answered on the application. BAM 210, p. 1.

Only information that has changed or is missing may be requested from the beneficiary. BAM 210, p. 2. The beneficiary is not required to take any action, such as signing or returning a notice if there has been no change in their circumstances. BAM 210, p. 2. If the information is not sufficient to renew eligibility, MDHHS must send a pre-populated renewal form to the beneficiary. BAM 210, p. 2. Allow the beneficiary 30 calendar days to respond and return the renewal form. BAM 210, p. 2. MDHHS must notify the beneficiary of their eligibility and the basis for the determination. BAM 210, p. 2.

A complete redetermination/renewal is required at least every 12 months. BAM 210, p. 2.

For MA cases, benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. BAM 210, p. 3. Also, the renewal month is 12 months from the date the most recent complete application was submitted. BAM 210, p. 3.

The Department does not redetermine the following MA coverages:

- Special N/Support; see BEM 113.
- Title IV-E recipients; see BEM 117.
- Special needs adoption assistance recipients; see BEM 117.
- Department wards; see BEM 117.
- Supplemental Security Income (SSI) recipients; see BEM 150.

BAM 210, p. 4. Note, a review must be completed before closing an individual in one of these categories if the closure is for any reason other than total ineligibility for any MA (such as moved out of state or death). BAM 210, p. 4. The review must consider eligibility in all other MA categories. BAM 210, p. 4.

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 11. Exception, for Family Independence Program (FIP), State Disability Assistance (SDA) and Food Assistance Program (FAP) only, if any section of the redetermination /review packet has not been completed but there is a signature, consider the redetermination /review complete. BAM 210, p. 12. Complete any missing sections during the interview. BAM 210, p. 12. When a complete packet is received, record the receipt in Bridges as soon as administratively possible. BAM 210, p. 12. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p. 12. For MA cases, benefits are not automatically terminated for failure to record receipt of the renewal packet. BAM 210, p. 12.

In this case, the redetermination was due back by [REDACTED]; however, policy allows Petitioner to submit the redetermination by the end of the benefit period, which was [REDACTED]. But the Department testified that it never received the redetermination by the [REDACTED], due date or by the end of the benefit period, which was [REDACTED]. The Department testified that it did receive the first page of the redetermination form and additional documentation on [REDACTED], but she failed to submit the entire redetermination. [Exhibit A, pp. 1-11.] As such, Petitioner was not eligible for MA and MSP benefits effective [REDACTED], because she failed to return her redetermination. [Exhibit B, pp. 1-4.]

In response, the AHR argued that the redetermination was submitted timely. The AHR/witness indicated that Petitioner was hospitalized during the redetermination process and thereafter resided at the [REDACTED], until she was returned home on or about [REDACTED]. The AHR/witness argued that the [REDACTED] sent the Department the redetermination before [REDACTED], and again on [REDACTED]. As part of the evidence record, the AHR included e-mail correspondences from [REDACTED], an A/R Coordinator for the [REDACTED]. In one specific e-mail from [REDACTED] to Petitioner's caseworker dated [REDACTED], there was a PDF file attached to the e-mail. [Exhibit A, p. 20.] The body of the e-mail also stated the following:

This is being sent on behalf of case number [REDACTED] she was in [REDACTED] during her redetermination that she stated was due to you on [REDACTED]. She has since returned home on [REDACTED] a [REDACTED] was sent to [REDACTED].

[Exhibit A, p. 20.]

A similar e-mail was also sent from [REDACTED] to the Department's e-mail at "DHS-EDM-Input" on [REDACTED], which the AHR indicated was the same attachment. [Exhibit A, p. 3.] Based on the e-mail, the Department indicated that a Facility Admission Notice (MSA-2565-C) was sent to the Department by the [REDACTED].

The AHR also had testimony by Petitioner's witness (who is Petitioner's sister/caregiver). Petitioner's witness testified that she went to the local DHHS office on

██████████, seeking assistance from the caseworker and the Department in order to complete the redetermination, but to no avail.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it closed Petitioner's MA and MSP benefits effective ██████ ████. The Department claimed that it never received a redetermination and/or a completed redetermination before the due date; therefore, the closure of the benefits was proper in accordance with Department policy. However, the undersigned Administrative Law Judge (ALJ) disagrees. The AHR provided credible evidence showing that ██████ ██████, from the ████████████████████, e-mailed Petitioner's caseworker on ██████████, in which the e-mail contained a PDF file. [Exhibit A, p. 20.] Furthermore, within the body of the e-mail, ██████████ indicated the file attachment is being sent on behalf of Petitioner because she was at their facility during the redetermination that was due by ██████████. [Exhibit A, p. 20.] This evidence is persuasive to conclude that the ████████████████████ sent Petitioner's redetermination to her caseworker prior to end of the benefit period, which was ██████████. As such, the undersigned finds that the AHR provided credible evidence showing that the redetermination was sent prior to the end of the benefit period; therefore, the closure of Petitioner's benefits was improper in accordance with Department policy. See BAM 210, pp. 11-12. The Department is ordered to reinstate Petitioner's benefits and redetermine her MA and MSP eligibility.

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 Petitioner's MA and MSP benefits effective ██████████.

Accordingly, the Department's MA and MSP 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 and MSP benefits effective ██████████;
2. Redetermine her MA and MSP eligibility for ██████████, ongoing;
3. Issue supplements to Petitioner for any MA and MSP benefits she was eligible to receive but did not from ██████████, ongoing; and

4. 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]

Counsel for Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]

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