



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: April 3, 2018  
MAHS Docket No.: 18-002128  
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 March 28, 2018, from [REDACTED] Michigan. The Petitioner was represented by her son and authorized hearings representative [REDACTED]. The hearing was consolidated with a separate hearing request for the representative (see REG 18-002126). The Department was represented by [REDACTED].

**ISSUE**

Did the Department of Health and Human Services (Department) properly close Petitioner's Medical Assistance (MA), Medicare Savings Program (MSP), and Food Assistance Program (FAP) benefits?

**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 Medical Assistance (MA) recipient enrolled in the MiChoice Waiver plan when on November 4, 2017, the Department sent her a Redetermination (DHS-1010) to her authorized representative at [REDACTED], [REDACTED]. Exhibit A, pp 6-13.
2. On November 17, 2017, the Department notified Petitioner that her benefits under the MiChoice Waiver plan would end effective January 1, 2017. Exhibit A, pp 14-18.
3. On November 30, 2017, the Department sent Petitioner a Medical Assistance (MA) and Medicare Savings Program (MSP) Redetermination (DHS-1010) to her

home address at [REDACTED], with a December 15, 2017, due date. Exhibit A, pp 19-26.

4. On December 19, 2017, the Department received Petitioner's completed Food Assistance Program (FAP) Redetermination form. Exhibit A, pp 27-34.
5. On December 19, 2017, the Department received verification that Petitioner has granted power of attorney to her son. Exhibit A, pp 35-38.
6. On January 2, 2018, the Department sent notice to Petitioner at [REDACTED], that her Medical Assistance (MA) and Medicare Savings Program (MSP) benefits would end effective February 1, 2018. Exhibit A, pp 40-43.
7. On January 12, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of cash assets reported on her December 18, 2017, Food Assistance Program (FAP) Redetermination form. Exhibit A, pp 45-46.
8. On January 29, 2018, the Department notified Petitioner that her Food Assistance Program (FAP) benefits would close effective February 1, 2018. Exhibit A, pp 47-50.
9. On February 23, 2018, the Department received Petitioner's request for a hearing. 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.

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, 2018), pp 2-4.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for 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.  
Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

Petitioner requested a hearing within 90 days of the Department sending written notice on January 2, 2018, that her MA benefits would close, and written notice on January 29, 2018, that her FAP benefits would close.

The receipt of MA benefits will stop at the end of the benefit period unless a renewal is completed, and a new benefit period is certified. Department of Health and Human Services Bridges Administrative Manual (BAM) 210 (January 1, 2018), p 4.

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 (January 1, 2018), 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 (April 1, 2017), pp 1-10.

On November 30, 2017, the Department sent Petitioner a Redetermination form. When this form was not returned by December 15, 2017, the Department notified her that her MA and MSP benefits would close at the end of the certified benefit period.

On December 19, 2017, the Department received Petitioner's redetermination form for her FAP benefit period. On January 12, 2018, the Department sent her a Verification Checklist (DHS-3503) requesting verification of the cash assets reported on her December 19, 2017, Redetermination. When the Department did not receive verification of Petitioner's assets, on January 29, 2018, it sent her notice that FAP benefits would close effective February 1, 2018. This was a closure at the end of the benefit period and the redetermination information was not provided as required causing FAP benefits to close at the end of the certified benefit period. BAM 201, p 3.

Reinstatement restores a closed program to active status without completion of a new application and is appropriate where a client complies with program requirements before the negative action date. Department of Health and Human Services Bridges Administrative Manual (BAM) 205 (January 1, 2018), p 1.

The Department would have restored both MA, MSP, and FAP benefits if the information necessary to accurately determine Petitioner's eligibility for MA had been provided by February 1, 2017. When this information was not received in a timely manner, reinstatement was no longer possible.

Petitioner's representative questioned whether the Department's documents were sent to Petitioner at her correct mailing address.

Other than the November 4, 2017, Redetermination sent to Petitioner's authorized representative, all correspondence was addressed to Petitioner's current mailing address.

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 a Redetermination (DHS-1010) was sent to Petitioner on November 30, 2017, at her current mailing address, and the Petitioner failed to rebut the presumption of receipt. On January 12, 2018, the Department sent a Verification Checklist (DHS-3503) to Petitioner at her current mailing address. Petitioner failed to rebut the presumption of that form as well.

The record evidence supports a finding that Petitioner failed to provide the Department with information necessary to determine her eligibility to receive benefits.

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 Petitioner's Medical Assistance (MA) and Food Assistance Program (FAP) benefits.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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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]

**Petitioner**

[REDACTED]