



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: April 19, 2018  
MAHS Docket No.: 18-002432  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 April 18, 2018, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

**ISSUE**

Did the Department properly close the Petitioner's Medical Assistance for Ad Care and Medicare Savings Plan?

**FINDINGS OF FACT**

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

1. At the hearing, the Petitioner withdrew his March 7, 2018 hearing request regarding Food Assistance as there had been no lapse in Food Benefits and thus he no longer wished to proceed with his hearing request for food assistance. Exhibit E.
2. The Petitioner was sent a redetermination for Medicaid and Medicare Savings Program on January 4, 2018 with a due date of February 5, 2018. The Petitioner did not return the redetermination. Exhibit A.
3. The Petitioner was sent a Mid Certification Contact Notice on January 2, 2018 for Food Assistance and Medicaid. The Mid Certification was due on February 1, 2018 and was timely completed by Petitioner on January 23, 2018. The Petitioner advised the Department that there were "No Changes". Exhibit B.

4. The Department sent a Health Care Coverage Determination Notice on February 16, 2018 closing the Petitioner's Medical Assistance effective March 1, 2018 ongoing for failure to return the redetermination. Exhibit C.
5. The Petitioner completed a new MA application on March 6, 2015 which was approved. The Petitioner did not receive MA coverage for February 2018.
6. The Petitioner requested a timely hearing on March 7, 2018 regarding the Department's closure of Petitioner's Medical Assistance and FAP 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.

In this case, the Department sent the Petitioner a Mid Certification form to the Petitioner on January 2, 2018 and sent Petitioner a Redetermination on January 4, 2018. Both forms were for review of Medicaid benefits. The Petitioner completed and returned the Mid Certification timely on January 23, 2018 and completed the form as directed, indicating in writing on the front of the form "no changes" with his initials and signed the form at the end of the form indicating again no changes. The Petitioner did not return the redetermination.

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors.

Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210 (January 2018), p. 1 (emphasis supplied).

This matter involves whether the Department properly closed the Petitioner's MA due to the redetermination not being completed. A redetermination for Medicaid is an eligibility review based upon a reported change. A renewal is the full review of eligibility factors

completed annually. BAM 210, p. 1. Medicaid may be passively reviewed, and the Department must use information currently available in the State of Michigan Systems to renew eligibility. The Department is not to request information from the client if the information is already available to the Department. This includes completing a renewal form. Only information that has changed or is missing may be requested from the beneficiary. 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.

Per the BPG Glossary, for Medicaid, a redetermination is defined as:

The periodic, thorough re-evaluation of all eligibility factors to determine if the group continues to be eligible for program benefits.

Referred to as a renewal for Medicaid and Healthy Michigan Plan. A passive renewal does not require any action from the beneficiary. BPG Glossary, April 2018, p. 55.

The Department testified at the hearing that the Petitioner had a 24-month FAP certification period. The Department further testified that the Department did not complete an ex parte review before closing the Petitioner's Medicaid. BAM 210, p. 2. The Department also testified that the Petitioner was eligible for Medicare Savings Program (QMB) and had received benefits at the time the renewal was sent.

In this case the evidence confirmed that the Mid Certification DHS 2240 A was timely returned. Department policy in BAM 210 specifically requires that the DHS 2240-A may be used to complete an ex parte review of MA or certify a second 12 Month MA period when the group has a 24-month certification. BAM 201, p. 12.

It is clear that because the Petitioner reapplied for MA on March 6, 2018 the Petitioner is eligible for MA ongoing for the month of March 2018. With respect to the Petitioner Medicare Cost Sharing program benefits for QMB, Department policy provides that QMB coverage begins the calendar month after the processing month. The Processing month is the month during which an eligibility determination is made. QMB is not available for the processing months or past months. BEM 165 (April 2017), p. 3. Thus, the Petitioner might experience a gap in QMB benefits based upon the Department's closure notice, the Health Care Coverage Determination Notice sent on February 16, 2018 closing the Petitioner's Medical Assistance effective March 1, 2018 ongoing for failure to return the redetermination. Exhibit C.

In this case after a review of the evidence presented, it is determined that the Department was allowed and required to process the mid certification form DHS 2240-A with regard to the Petitioner's Medicaid review because the Petitioner had a 24 month FAP certification and policy in BAM 210 referenced above, allows for the form to be used to complete an ex parte review or certify a second 12 month MA period. The Department did not do so in this case and thus did not comply with Department policy

when it did not do so and closed the Petitioner's MA case for failure to complete the redetermination form that was also sent to the Petitioner.

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 the Petitioner's Medicaid and Medicare Savings Program case for failure to return the redetermination.

It is further determined that the Petitioner withdrew his hearing request for March 7, 2018 for Food Assistance on the record at the hearing; therefore, no hearing was conducted, and the hearing request will be dismissed as it is no longer required.

### **DECISION AND ORDER**

Accordingly, the Department's decision is regarding the closure of Petitioner's Medical Assistance and Medicare Savings Program benefits is hereby **REVERSED**.

The Petitioner's hearing request dated March 7, 2018 regarding Food Assistance was withdrawn,


Accordingly, the Petitioner's FAP request for hearing is hereby **DISMISSED**.

It is so **ORDERED**.

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. The Department shall re-register the Petitioner's Mid Certification Contact Notice with respect to Petitioner's Medicaid and process the Notice with respect to certification of Medicaid and Medicare Savings Program QMB.
2. The Department shall provide the Petitioner written notice regarding the outcome of its processing of the Mid Certification Contact Notice with respect to Medicaid and the Medicare Savings Program (QMB).

LF/tm



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**Lynn M. Ferris**

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

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