



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: May 24, 2018  
MAHS Docket No.: 18-003085  
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; 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 May 22, 2018, from Lansing, Michigan. Petitioner represented herself for the hearing. [REDACTED] [REDACTED] Petitioner's mother, appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Joe Kulpa, Family Independence Manager; and Krystina Blakely, Eligibility Specialist.

**ISSUE**

Did the Department properly close Petitioner's Medical Assistance (MA) benefits effective April 1, 2018?

**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 the MA – Healthy Michigan Plan (HMP) coverage.
2. On January 29, 2018, Petitioner applied for Food Assistance Program (FAP) benefits. [Exhibit A, p. 1.]
3. As a result of the application, the Department sent Petitioner a Verification Checklist (VCL) on February 5, 2018, to determine her eligibility for the FAP benefits and to determine her ongoing eligibility for the MA benefits. The VCL requested proof of home rent, checking/savings accounts, heat expense, medical

expenses, employment verifications, and loss of employment. The VCL was due back by February 15, 2018. [Exhibit A, pp. 1 and 7-8.]

4. Per the credible testimony of Petitioner, she never received the VCL dated February 5, 2018.
5. The Department indicated that it never received the VCL's by the due date of February 15, 2018. [Exhibit A, pp. 1 and 9.]
6. On February 28, 2018, the Department sent Petitioner a Benefit Notice informing her that her MA benefits would be terminated effective April 1, 2018, due to her failure to comply with the verification requirements. [Exhibit A, pp. 10-11.]
7. On March 20, 2018, Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 3-4.]

### **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 (January 2018), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

Tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. Use the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3.

The client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. BAM 130, p. 3. If no evidence is available, use your best judgment. BAM 130, p. 3.

For MA cases, allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130, p. 8. If the client cannot provide the

verification despite a reasonable effort, extend the time limit up to two times. BAM 130, p. 8.

At application, renewal, ex parte review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. BAM 130, p. 8. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.
- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.
- Every effort by the department was made to assist the client in obtaining verifications.

BAM 130, p. 8. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 8. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 8. The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8.

In the present case, Petitioner was an ongoing recipient of the MA – HMP coverage. On January 29, 2018, Petitioner applied for FAP benefits. [Exhibit A, p. 1.] As a result of the application, the Department sent Petitioner a VCL on February 5, 2018, to determine her eligibility for the FAP benefits and to determine her ongoing eligibility for the MA benefits. [Exhibit A, pp. 1 and 7-8.] The VCL requested several verifications (i.e., wages) and it was due back by February 15, 2018. [Exhibit A, pp. 1 and 7-8.] The Department indicated that it never received the VCL's by the due date of February 15, 2018. [Exhibit A, pp. 1 and 9.] In fact, the Department presented an Electronic Case File (ECF) showing that it did not receive any of the requested documents by the due date. [Exhibit A, p. 9.] Therefore, the Department closed Petitioner's MA benefits due to her failure to comply with the verification requirements. [Exhibit A, pp. 10-11.]

In response, Petitioner testified that she never received the VCL dated February 5, 2018. She did not dispute that the mailing address on the VCL was the proper address at the time it was mailed. She testified she has had issues in receiving other correspondence in the mail (i.e., energy or cable bill). She testified that she never reported any mailing problems with the United States Postal Service (USPS). Petitioner's mother, who resides with Petitioner, testified that it is possible that Petitioner did not receive the VCL due to mailing issues. But at the same time, the mother testified that there was a stack of unopened mail at their home and it is possible that the VCL was located in the stack of mail. However, Petitioner testified she went through the mail and did not locate the VCL. And because Petitioner did not receive the VCL, she argued she was unable to provide the requested verifications by the due date. It should be noted that the Department testified that the VCL was mailed to the proper address, it was mailed via central print, and it was not returned back as undeliverable from the USPS.

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).

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it closed Petitioner's MA benefits effective April 1, 2018. It is found that Petitioner rebutted the presumption of proper mailing. The undersigned finds Petitioner's testimony credible that she never received the VCL dated February 5, 2018. Petitioner's credibility is supported by her mother who indicated it was possible that Petitioner never received the VCL due to mailing issues. As such, Petitioner and her mother's testimony credibly establish that because Petitioner never received the VCL in February 2018, she was unable to submit the requested proofs by the due date. Because Petitioner rebutted the presumption of proper mailing, the Department improperly closed Petitioner's MA benefits effective April 1, 2018, in accordance with Department policy. See BAM 105, p. 9; BAM 130, pp. 3 and 8.

### **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 benefits effective April 1, 2018.

Accordingly, the Department's MA 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 benefits effective April 1, 2018;
2. Redetermine Petitioner's MA eligibility effective April 1, 2018;
3. Issue supplements to Petitioner for any MA benefits she was eligible to receive but did not from April 1, 2018, ongoing; and
4. Notify Petitioner of its decision.

EF/nr



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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) 763-0155; 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**

Kimberly Kornoelje  
121 Franklin SE  
Grand Rapids, MI  
49507

Kent County DHHS- via electronic mail

BSC3- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

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