



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: August 15, 2018  
MAHS Docket No.: 18-005578  
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, a telephone hearing was held on July 25, 2018, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Haysem Hosney.

**ISSUE**

Did the Department of Health and Human Services (Department) properly closed Petitioner's Medical Assistance (MA) 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. On January 4, 2018, the Department sent Petitioner a Long-Term Care Medicaid Redetermination Notice (DHS-0035).
2. On February 5, 2018, the Long-Term Care Medicaid Redetermination Notice (DHS-0035) form was returned by the US Postal Service as undeliverable.
3. On May 18, 2018, the Department notified Petitioner that she was no longer eligible for Medical Assistance (MA) effective June 1, 2018.
4. On May 25, 2018, the Department received Petitioner's request for a hearing protesting the closure of her Medical Assistance (MA) 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.

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.

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).

Petitioner was an ongoing MA recipient when the Department sent her a Long-Term Care Medicaid Redetermination Notice (DHS-0035) form. This form was not received by the Department because it was returned by the US Postal Service as undeliverable.

In this case, the record evidence supports a finding that Petitioner did not receive the Long-Term Care Medicaid Redetermination Notice (DHS-0035) form. Petitioner did not refuse to provide verification of her circumstances and only failed to return the form because she did not receive it. The Department was aware that the form was not properly delivered, and that Petitioner was receiving long term care. Because Petitioner

is receiving long term care, it was not unreasonable that the Department should have been able to locate Petitioner.

This Administrative Law Judge finds that Petitioner did not refuse to cooperate with the Department and that she made a reasonable attempt to provide the Department with the information necessary to determine her eligibility for ongoing MA 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 did not act in accordance with Department policy when it closed Petitioner's Medical Assistance (MA) benefits.

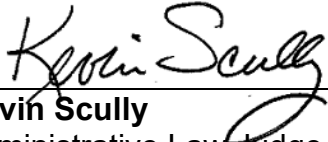
### **DECISION AND ORDER**

Accordingly, the Department's 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:

Re-send the Petitioner a Long-Term Care Medicaid Redetermination Notice (DHS-0035) form and initiate a determination of the Petitioner's eligibility for Medical Assistance (MA) effective June 1, 2018, in accordance with policy.

KS/hb

  
\_\_\_\_\_  
**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) 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**

Vivian Worden  
41227 Mound Rd.  
Sterling Heights, MI 48314

Macomb County (District 36), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]