



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: November 28, 2018
MAHS Docket No.: 18-009995
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 October 31, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Tonya Boyd, Family Independence Manager.

ISSUE

Did the Department properly close the Petitioner's Medical Assistance (MA) case and Medicare Savings Program (MSP) benefits for Qualified Medicare Beneficiary (QMB) due to Petitioner's failure to complete the redetermination?

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 June 4, 2018, the Department sent the Petitioner a Redetermination for her MA which was due on July 5, 2018. (Exhibit 2.)
2. The Department did not receive a Redetermination from Petitioner and closed the Petitioner's MA case and MSP benefits for QMB.
3. The Department issued a Health Care Coverage Determination Notice (HCCDN) on July 20, 2018, closing the Petitioner's MA for failing to complete the redetermination effective August 1, 2018. (Exhibit 1.)

4. The Department's Electronic Case File (ECF) did not contain a completed Redetermination from the Petitioner.
5. The Petitioner is a recipient of Retirement, Survivors and Disability Insurance (RSDI) from the Social Security Administration (SSA). On August 14, 2018, the SSA sent Petitioner a letter which advised the Petitioner that the State of Michigan will no longer pay her Medicare Part B premiums starting August 1, 2018, and that Medicare Part B premiums are deducted one month in advance. (Petitioner Exhibit A.)
6. The Petitioner requested a hearing on [REDACTED] 2018, protesting the closure of her MA and MSP benefits for QMB.

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.

The State Supplemental Security Income (SSI) Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, the Petitioner was sent a Redetermination by the Department so that it could complete an annual review of her eligibility for Medical Assistance (MA) benefits as required by Department policy.

A complete redetermination/renewal is required at least every 12 months. Bridges sets the redetermination/renewal date according to benefit periods; see Eligibility Decisions in BAM 115. Benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. If the client does not begin the redetermination process, allow the benefit period to expire. BAM 201 (January 2018), p. 3.

At the hearing, the Department presented its evidence that the redetermination was sent to the correct address and that it did not receive a completed redetermination from the Petitioner. The Petitioner contended that she mailed the redetermination to the

Department on June 14, 2018, at the 8 Mile Road - Livernois post office because the internet was down. Thereafter, the Petitioner was sent a HCCDN on July 20, 2018, closing the Petitioner's MA for failing to complete the Redetermination. The closure was effective August 1, 2018. At the hearing, the Petitioner testified that she was not aware of the closure until sometime in August after her MA and QMB had closed because all her mail was in a pile, as she had been ill. The Petitioner now seeks to have her MA and QMB reinstated because she contends she properly mailed the Redetermination and returned it timely. The Petitioner testified that reapplied for Medicaid on [REDACTED], 2018.

The Petitioner confirmed that she received the July 20, 2018, HCCDN advising her that her MA closed. The Petitioner testified that she received the redetermination on June 4, 2018. The Petitioner further testified that she mailed the original signed copy of the Redetermination in a prepaid, self-addressed envelope to the Department on June 14, 2018. The Petitioner testified that she did not receive any returned mail of the Redetermination and that the return address on the prepaid envelope had the Department's return address. The Petitioner usually files a copy of her redetermination by internet through the Bridge's system; but because her internet was down, she had to mail the Redetermination. The Petitioner also testified that she filed an additional copy of the original Redetermination by hand delivery to the Department on October 3, 2018, for the prehearing conference so that she could show she completed the Redetermination. She also scanned to the Department by Petitioner on October 11, 2018, because her prehearing conference was never held. In addition, the Petitioner learned after her case had closed, that her QMB would not longer be paid by the Department when she received a letter from the SSA dated August 14, 2018, stating the State of Michigan would no longer pay for the Medicare Part B premium. (Petitioner Exhibit 2.)

The Petitioner appeared for her scheduled prehearing conference on October 3, 2018, at 9:00 a.m. The Department never appeared for the prehearing conference, even after the Petitioner advised the front desk two times she was present for the prehearing conference. Finally, after waiting for 45 minutes, she advised the front desk that no worker had called her case, then waited another 25 minutes with no one from the Department appearing for the prehearing conference. The prehearing conference was never held, and Petitioner advised the front desk that because it was so late that she had to leave for a pre-surgery medical appointment for a surgery scheduled for the next day, [REDACTED] 2018.

The Department searched the electronic case file (ECF) at the hearing, and there was no Redetermination received in the ECF for Petitioner.

Benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. If the client does not begin the redetermination process, allow the benefit period to expire. BAM 210 (January 2018), p. 6.

If the redetermination packet is not logged in by the last working day of the redetermination month, Bridges automatically closes the EDG. A DHS-1605 is not generated. If the client fails to return a complete DHS-2240A by the last day of the 12th month. Bridges will automatically close the case. If the client reapplies, treat it as a new application and Bridges will prorate the benefits. BAM 210, p. 13.

Verifications are due the same date as the redetermination/review interview. When an interview is not required, verifications are due the date the packet is due.

In this case, the Petitioner credibly testified that she properly completed the Redetermination for her MA, mailed it to the Department in the self-addressed, prepaid envelope provided by the Department and did not receive any return mail of her Redetermination because as she testified, the envelope provided by the Department has the Department's address as the return address. In addition, she mailed the Redetermination well before the due date, and specifically recalled that where she mailed the Redetermination from, which was the post office located at 8 Mile Road and Livernois in Detroit, Michigan. Given the specificity of information provided by the Petitioner about the mailing of the Redetermination and presenting at the hearing, a copy of the original redetermination mailed by her, signed June 13, 2018, it is determined that the Petitioner did properly address and mail the completed Redetermination. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption 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). In this case, although the Department's ECF file did not register that the Redetermination was received, that does not rebut the presumption of receipt as after mail is received by the Department the actual document is handled a second time and must then be separately scanned; and therefore, the redetermination is presumed received by the Department.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Petitioner's medical assistance and Medicare Savings Program benefits as the Petitioner's proofs did establish that she completed and mailed the redetermination thus establishing receipt by the Department.

DECISION AND ORDER

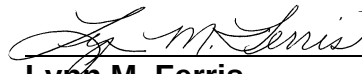
Accordingly, the Department's decision is **REVERSED**.

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:

1. The Department shall reinstate the Petitioner's Medical Assistance Benefits and Medicare Savings Program benefits (QMB) and process the Petitioner's Redetermination signed and dated June 13, 2018, (Petitioner Exhibit 2) and determine Petitioner's ongoing eligibility.
2. The Department shall, if Petitioner is determined eligible after reinstatement and redetermination processing, issue a supplement to the Petitioner for QMB benefits she was otherwise eligible to receive in accordance with Department policy.
3. The Department shall provide the Petitioner written notice of its determination.

LMF/



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) 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

Denise McCoggle
MDHHS-Wayne 15-Hearings

Petitioner

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