



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: March 12, 2018
MAHS Docket No.: 17-017089
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 March 12, 2018, from Detroit, Michigan. Petitioner was present with his niece, [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) benefit case?

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 MA Supplemental Security Income (SSI) recipient.
2. Petitioner began receiving Retirement, Survivors, and Disability Insurance (RSDI) benefits and was no longer eligible to receive SSI benefits.
3. On September 8, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of his Social Security benefits (Exhibit B).
4. On September 25, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his MA benefit case was closing effective November 1, 2017, ongoing (Exhibit A).

5. On December 26, 2017, Petitioner submitted a request for hearing disputing the Department's actions.

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, Petitioner began receiving RSDI benefits and was no longer receiving SSI benefits. As a result, Petitioner was no longer eligible for MA for SSI recipients. Respondent was transitioned into an MA program for terminated SSI recipients. The Department testified that an MA application was sent to Petitioner on [REDACTED], 2017. The Department presented a VCL that was sent to Petitioner on September 8, 2017. Proofs were due September 18, 2017.

The Department administers MA for SSI recipients, including a continued MA eligibility determination when SSI benefits end. BEM 150 (April 2017), p. 1. SSI recipients who are Michigan residents receive MA-SSI coverage for the duration of SSI eligibility. BEM 150, p. 6. When SSI benefits stop, the Department evaluates the reason based on the SSA's negative action code, then either closes the MA-SSI case if SSI stopped for a reason that prevents continued MA eligibility (such as death or lack of Michigan residency) or transfers the client's MA case to SSIT type of assistance until a redetermination is completed to allow for an ex parte review of the client's eligibility for other MA categories. BEM 150, p. 6.

During the ex parte review, the Department must consider the client's eligibility for coverage under all MA categories. BEM 150, p. 7. The Department must send the client and her authorized representative a redetermination packet that includes the DCH-1426, Application for Health Coverage & Help Paying Cost, and the word version of the DHS-3503 Verification Checklist, marked with all verifications required for MA. BEM 150, p. 7. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. The Department sends a negative action notice when: the client indicates a refusal to

provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department testified that Petitioner did not return the MA application that was reportedly sent, as well as the proofs that were requested in the VCL. As a result, the Department sent Petitioner a Health Care Coverage Determination Notice on September 25, 2017, informing him that his MA benefit case was closing effective November 1, 2017, ongoing.

Petitioner testified that he never received a new application for MA benefits. Petitioner testified that he did receive the VCL sent on September 8, 2017. Petitioner stated that he contacted his worker on September 18, 2017 and informed him that he would be unable to obtain the proofs by that date. Petitioner testified that his worker informed him that he was required to return the proofs by 5 PM on that date.

First, the Department failed to establish that Petitioner was sent an MA application, as required by policy. The Department testified there was no evidence in Petitioner's electronic file showing that an application was sent because the application was sent manually. The individual that purportedly sent the application was not present to testify at the hearing. Petitioner testified that he did not receive an application. Second, policy allows for two extensions to the time limit to provide requested verifications for MA cases. Petitioner provided credible testimony that he contacted his worker and informed him that he was unable to timely provide the verifications requested. Petitioner was not afforded an extension, as required by policy. Therefore, the Department did not act in accordance with policy when it closed Petitioner's MA benefit case.

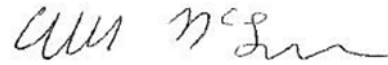
DECISION AND ORDER

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 benefit case.

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. Redetermine Petitioner's MA eligibility effective November 1, 2017, ongoing;
2. Provide Petitioner with MA coverage he eligible to receive as of November 1, 2017, ongoing;
3. Notify Petitioner of its MA decision in writing.



EM/cg

Ellen McLemore
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

Via Email:

MDHHS-Wayne-19-Hearings
MDHHS-Recoupment-Hearings
M. Best
EQAD
BSC4-Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

