



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 30, 2018
MAHS Docket No.: 18-001082
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 30, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Pamela Herman, Hearing Facilitator.

ISSUES

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

Did the Department properly close Petitioner's Child Development and Care (CDC) 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 and CDC benefit recipient.
2. On [REDACTED], 2017, Petitioner submitted a redetermination for both her MA and CDC benefit cases (Exhibit A).
3. On November 15, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her MA benefit case was closing effective November 1, 2017, ongoing (Exhibit B).

4. On November 15, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's wages for the previous 30 days and verification of her worker's compensation benefits (Exhibit C).
5. On November 28, 2017, Petitioner submitted verification of her wages from her income from employment (Exhibit D).
6. On December 21, 2017, the Department sent another VCL requesting verification of earned and unearned income (Exhibit E).
7. On December 28, 2017, the Department sent another VCL requesting verification of earned and unearned income (Exhibit F).
8. On January 10, 2018, the Department sent Petitioner a Notice of Case Action informing her that her CDC benefits were closing effective February 4, 2018, ongoing (Exhibit G).
9. On January 16, 2017, Petitioner submitted verification of her worker's compensation benefits (Exhibit H).
10. On January 22, 2018, 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).

MA

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 submitted a redetermination regarding her MA benefits on October 30, 2017. On November 15, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her MA benefit case was closing effective November 1, 2017, ongoing. The Department testified it was unsure as to the reason Petitioner's MA case was closed but that it was likely due to the redetermination being logged into the system as untimely.

The Department must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2017), p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. For MA cases, a redetermination is an eligibility review based on a reported change and a renewal is the full review of eligibility factors completed annually. BAM 210, p. 1. The DHS-1010 redetermination form is generated and sent to the client at the time of an annual renewal. BEM 105 (April 2017), p. 3. Benefits stop at the end of the benefit period unless a renewal is completed, and a new benefit period is certified. BAM 210, p. 3.

The Department testified that Petitioner's benefit period ended October 31, 2017. The Department stated that even though Petitioner submitted her redetermination on October 30, 2017, which was within the benefit period, it was most likely not logged into the system as received until after October 31, 2017. The Department stated that the Health Care Coverage Determination Notice sent on November 15, 2017 was most likely automatically generated as a result of Petitioner's redetermination packet being logged into the system as untimely. The Department conceded that Petitioner's redetermination packet was received timely. Therefore, the Department did not act in accordance with policy when it closed Petitioner's MA benefit case.

CDC

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, Petitioner completed a redetermination regarding her CDC benefits on October 30, 2017. On November 15, 2017, the Department sent Petitioner a VCL requesting verification of her wages for the previous 30 days and verification of her worker's compensation benefits. Proofs were due by November 27, 2018.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP 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. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next

business day. BAM 130, p. 7. 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 submitted verification of her wages on November 28, 2017. However, Petitioner did not submit verification of her worker's compensation benefits. The Department sent another VCL on December 21, 2017. Proofs were due on December 6, 2017. The Department requested documents in the December 21, 2017 VCL with a due date that had already expired. The Department sent another VCL on December 28, 2017, with a due date of January 8, 2018. The Department sent a Notice of Case Action on January 10, 2018, closing Petitioner's CDC benefits for her failure to verify her wages and worker's compensation benefits. The Department conceded that Petitioner did verify her wages but not her worker's compensation benefits.

Petitioner testified that she was employed with ██████████ but separated in February 9, 2017. Petitioner stated her worker's compensation ended in January 2017. Petitioner stated that she submitted verification of the conclusion of her employment with ██████████ and believed that was sufficient to also verify the conclusion of her worker's compensation. After realizing that was insufficient proof, Petitioner submitted verification of the conclusion of her worker's compensation benefits on January 16, 2018 (Exhibit H).

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 22 (January 2018), p. 2. Negative actions must be deleted in some situations. BAM 220, p. 13. One such situation is when the requirement is met before the negative action effective date. BAM 220, p. 13. The Department will enter the information the client provided to meet the requirement that caused the negative action into the system. BAM 220, p. 13. The Department will then take the additional following actions: (i) reactive the program(s); and (ii) run eligibility and certify the results. BAM 220, p. 13. The negative action date is the day after the timely hearing request date on the notice of case action. BAM 220, p. 12. A timely hearing request is a request received within 10 days of the date the notice of case action was issued. BAM 600 (January 2018), p. 25. When the 10th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday. BAM 600, p. 25.

According to the notice issued on January 10, 2018, the timely hearing request date was January 22, 2018. The Department conceded that Petitioner submitted verification of her wages on November 28, 2017 and verification of her worker's compensation on January 16, 2018. Therefore, Petitioner submitted all required verifications before the negative action date. Thus, the Department did not follow policy when it failed to reinstate Petitioner's benefits and redetermine her eligibility.

DECISION AND ORDER

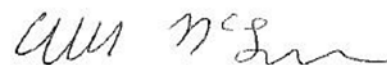
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's MA and CDC benefit cases.

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 as of November 1, 2017, ongoing;
2. If Petitioner is eligible for MA benefits, provide MA coverage she is entitled to receive as of November 1, 2017, ongoing;
3. Redetermine Petitioner's CDC eligibility as of February 1, 2018, ongoing;
4. If Petitioner is eligible for CDC benefits, issue supplements she was entitled to receive but did not as of February 1, 2018, ongoing; and
5. Notify Petitioner of its MA and CDC decisions 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-Calhoun-21-Hearings
M. Best
EQAD
L. Brewer-Walraven
BSC3-Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

