



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 21, 2019
MAHS Docket No.: 18-012825
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 February 19, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Keith Richard, Eligibility Specialist, and Tamia McGlothlin, Assistance Payments Supervisor.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) Program 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. Petitioner was an ongoing MA recipient.
2. On August 4, 2018, the Department issued a Redetermination to Petitioner at her home on [REDACTED].
3. On September 28, 2018, the Department received the completed Redetermination from Petitioner.
4. On October 17, 2018, the Department issued a Verification Checklist (VCL) to Petitioner at the same address on [REDACTED] requesting proof of her checking and savings accounts by October 29, 2018.

5. On November 16, 2018, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner at the same address on [REDACTED] [REDACTED] informing her that her MA benefits would close, effective October 1, 2018, for failure to failure to verify her bank accounts.
6. On the same day, the Department issued a Verification of Assets form, DHS-20, to Petitioner to assist her in verifying her bank account information.
7. On November 29, 2018, the Department received Petitioner's request for hearing disputing the closure of her MA benefits.
8. As of the date of the hearing on February 19, 2018, the Department still had not received proof of Petitioner's bank accounts.

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's MA case was closed for failure to verify her bank accounts.

At the hearing, Petitioner asserted that she turned in documents in September 2018; but she could not identify what documents were submitted. A review of the record suggests that the documents submitted by Petitioner to the Department in September 2018 were her completed Redetermination and not her bank statements. Petitioner also asserted that she never received the VCL, which asked her to submit proof of her bank accounts by October 29, 2018. However, Petitioner's testimony is inconsistent because in one statement she is saying she received it and submitted all required documents, but then in another statement says she did not know about the request for verifications because she did not receive the VCL. Petitioner clarified that she was uncertain if she received the VCL because sometimes her depression prevents her from leaving home. When her depression is bad, she can go long periods without leaving home and her mail piles up in her mailbox. On one occasion, a postal worker has contacted Petitioner's landlord to verify that Petitioner still lives at the address. Once the landlord became aware that mail was piling up, the landlord contacted Petitioner and told her to pick up her mail.

Petitioner retrieved her mail from the mailbox, but took it home, placed it on the counter, and did not read it. The mail eventually became mixed with other things and lost.

The Department is required to verify household circumstances at application, at redetermination, and for reported changes. BAM 130 (April 2017), p. 1. In MA programs, the Department is required to verify assets at redetermination. BEM 400 (October 2018), p. 59. When requesting the verification, the Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. MA clients are provided 10 calendar days to provide all requested verifications. BAM 130, p. 8. Case action notices are sent when a client indicates a refusal to provide a verification or when the time period given has lapsed. BAM 130, p. 9. Clients must cooperate with the local office in determining ongoing eligibility including completion of forms and returning requested items. BAM 105, p. 9.

In this case, the Department issued the VCL to Petitioner's address of record and identified what was required, how to obtain it, and the due date. The Department has not received any returned mail in Petitioner's cases. The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 173 NW2d 225 688 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 241 NW2d 71 (1976); *Long-Bell Lumber Co v Nynam*, 108 NW 1019 (1906). Petitioner indicated she did not review her mail and left mail in the mailbox for long periods; thus, she has not adequately rebutted the presumption of receipt. Petitioner has a responsibility to cooperate with the Department, which means she is expected to pick up her mail and review all communications from the Department. Since Petitioner failed to provide the requested verification by the due date, the Department properly closed her case. However, during the hearing, a question arose related to the effectiveness date of the closure Petitioner's MA benefits.

The Department is required to implement negative actions no sooner than 12 days after the date of notice to the client. BAM 220 (October 2018), pp. 4-5, 11-12. Negative actions include but are not limited to MA case closures. BAM 220, p. 11. In this case, the HCCDN issued on November 16, 2018, indicates that Petitioner's MA benefits would close effective October 1, 2018. Since the notice was issued on November 16, 2018, the Department could not close Petitioner's MA benefits until December 1, 2018. Therefore, Petitioner's HCCDN is incorrect; and the effectiveness date of the closure was inappropriate. The Department did not provide any other evidence to show that it properly closed Petitioner's MA case, effective December 1, 2018, instead of October 1, 2018. Therefore, the Department's notice is not in accordance with Department policy; and the closure was inappropriate for October and November 2018.

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 for October and November 2018, but properly determined Petitioner ineligible for MA benefits effective December 2018.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED in part** with respect to the closure of Petitioner's MA benefits for October and November 2018; but **AFFIRMED in part** with respect to the closure of Petitioner's MA benefits effective December 2019.

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 and provide coverage for October and November 2018;
2. Notify Petitioner in writing of the reinstatement of benefits for October and November 2018.

AMTM/jaf



Amanda M. T. Marler
Administrative Law Judge
for Robert Gordon, 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
MDHHS-Kent-Hearings

Petitioner

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