



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED] FL [REDACTED]

Date Mailed: March 18, 2019
MAHS Docket No.: 19-001207
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 March 14, 2019, from Detroit, Michigan. The Petitioner was represented by her Durable Power of Attorney representatives, Authorized Representatives (AR), and Authorized Hearings Representative (AHR), Denise Elliott and [REDACTED]. The Department of Health and Human Services (Department) was provided Notice of the hearing on February 28, 2019. On the morning of March 14, 2019, an email was sent to the local office to remind them of the three-way telephone conference hearing for Petitioner. The hearing was originally scheduled for 10:30 AM pursuant to the Notice of Hearing. After 11:00 AM, the Department was unable to locate a participant for the hearing on behalf of the Department. The hearing proceeded without the Department's participation as Petitioner's representatives were ready and available to proceed.

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. The Department closed all of Petitioner's MA related cases for failure to return a completed Redetermination, Application, and proofs.

2. On January 29, 2019, the Department received a completed Redetermination for Petitioner.
3. On February 1, 2019, the Department received Petitioner's hearing request disputing the closure of 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.

In this case, the Department closed Petitioner's MA case for failure to return a completed Redetermination, Application, and proofs.

The Department is required to review program eligibility at least every 12 months. BAM 210 (January 2018), p. 3. MA benefits stop at the end of a benefit period unless a renewal is completed, and a new benefit period is certified. BAM 210, p. 4. Bridges generates a Redetermination packet to the client three days prior to the negative action cut-off date in the month before the Redetermination is due. BAM 210, pp. 8, 19. Clients must be provided 30 days to return the completed form. BAM 210, p. 2.

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).

The Department did not appear for the hearing and did not present any evidence showing that it had properly addressed and mailed a Redetermination to the Petitioner's Authorized Representative. Petitioner's Authorized Hearing Representative testified that she did not receive any communications from the Department in December 2018. Furthermore, she testified that she only became aware of the Redetermination via the closure notice and promptly called Petitioner's caseworker. Petitioner's AR also indicated that she was only able to complete the document and send it to the Department because she found a copy online and faxed it to them on January 29, 2019.

Since the Department has not shown that the Redetermination, an Application, or any requests for verifications were sent to Petitioner's AR, the Department has not met its burden of proof that it properly closed Petitioner's case.

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 Petitioner's MA case.

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. Reinstate Petitioner's MA case,
2. Redetermine Petitioner's MA eligibility,
3. Issue supplements to Petitioner or on her behalf for benefits not previously received; and,
4. Notify Petitioner's AR in writing of its decision.

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

Mark Epps
MDHHS-Genesee-Clio-Hearings

Counsel for Petitioner

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Petitioner

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