



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR



Date Mailed: May 21, 2019
MOAHR Docket No.: 19-003189
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on May 15, 2019, from Lansing, Michigan. Petitioner was represented by himself. The Department was represented by Juanita Munoz.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's Medical Assistance (MA) and Food Assistance Program (FAP) 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 Medical Assistance (MA), Medicare Savings Program (MSP), and Food Assistance Program (FAP) recipient when the Department sent him a Redetermination (DHS-1010) dated January 31, 2019. Exhibit A, p 5.
2. On March 12, 2019, the Department notified Petitioner that his Medical Assistance (MA) benefits would close effective April 1, 2019. Exhibit A, p 9-10.
3. On March 25, 2019, the Department received Petitioner's request for a hearing. Exhibit A, pp 2-3.

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 Medicare Savings Programs are SSI-related MA categories. There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2018), pp 2-4.

QMB coverage begins the month after the processing month. SLMB coverage is available for retro MA months and later months. ALMB coverage is available for retro MA months and later months, but not for time in a previous calendar year even if the application was made in the previous year. BEM 165, pp 3-4.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2019), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (April 1, 2017), pp 1-10.

Petitioner was an ongoing MA recipient under the G2S category, an MSP recipient, and a FAP recipient. The Department requested that Petitioner complete a Redetermination (DHS-1010) form so that his eligibility for ongoing benefits could be verified.

The Redetermination (DHS-1010) form was dated January 31, 2019, it was properly addressed to Petitioner's mailing address of record, but Petitioner denied receiving that form.

While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, as it was here, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

Due to severe winter weather conditions, the state of Michigan had closed all non-essential operations from January 30, 2019, to January 31, 2019. It is not clear whether the Redetermination (DHS-1010) was printed on January 31, 2019, and mailed later, or whether the form was ever mailed, but this Administrative Law Judge finds that Petitioner has rebutted the presumption that he received the Redetermination form.

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 Medical Assistance (MA) and Food Assistance Program (FAP) benefits.


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. Initiate a determination of the Petitioner's eligibility for Medical Assistance (MA), Medicare Savings Programs (MSP), and Food Assistance Program (FAP) benefits effective April 1, 2019.
2. Provide Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue Petitioner any retroactive benefits he may be eligible to receive, if any.

KS/hb



Kevin Scully
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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR 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

Jeanette Cowens
2524 Clark Street
Detroit, MI 48209

Wayne County (District 41), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]