



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: January 14, 2020
MOAHR Docket No.: 19-012688
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 January 13, 2020 from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Natalie McLaurin, Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) Program Healthy Michigan Plan (HMP) 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 has had the same address of record in [REDACTED] Michigan since September 2015.
2. Petitioner applied for and received MA HMP benefits beginning in 2015.
3. Petitioner was enrolled in the auto-renewal program for HMP benefits since his Application in 2015.
4. On October 4, 2019, the Department mailed Petitioner a Redetermination to be completed and returned to the Department by November 4, 2019.
5. This was Petitioner's first Redetermination since his initial Application in 2015.

6. As of November 15, 2019, the Department had not received the completed Redetermination; therefore, a Health Care Coverage Determination Notice (HCCDN) was issued to Petitioner at the same address of record notifying him of the closure of his MA benefits effective December 1, 2019 for failure to return the Redetermination.
7. On November 25, 2019, the Department received Petitioner's request for hearing disputing the Department's closure of his MA benefits indicating he had not received a Redetermination and that he had only received a closure notice as well as a notice regarding HMP work requirements due by January 31, 2019.

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 disputes the closure of his MA benefits for failure to return the Redetermination and indicates that he did not receive the Redetermination from the Department. A complete redetermination/renewal is required at least every 12 months. BAM 210 (April 2019), p. 3. In Modified Adjusted Gross Income (MAGI) MA cases such as HMP, passive renewal is an option when a client gives the Department the ability to access the client's tax information for up to a maximum of five years. BAM 210, p. 1. In MA cases, benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified or when the passive renewal is authorized. BAM 210, p. 4. A redetermination/review packet is considered complete when all of the sections of the Redetermination form including the signature section are completed. BAM 210, p. 12. Verifications are due the same date as the Redetermination/renewal. BAM 210, p. 16. At renewal, the Department must provide 30 calendar days for the client to return the form. BAM 130 (April 2017), p. 8. Case action notices are sent when the client refuses to provide verification or the time period given has lapsed. *Id.*

The Department indicates that a Redetermination was believed to have been mailed to Petitioner at his address of record on October 4, 2019 from the central printing office. The Redetermination was due November 4, 2019. Petitioner credibly testified that he did not receive the Redetermination and maintained the same position in his request for hearing. It is also notable that this is Petitioner's first Redetermination since becoming

an MA recipient. Case law provides that 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). In this case, Petitioner credibly testified that he did not receive the Redetermination, that he had only received the HCCDN and the notice regarding work requirements. Furthermore, he credibly testified that he was the only person who checked his mail and that he checked his mail daily. Given Petitioner's credible testimony that he did not receive the form and this was the first time a Redetermination was supposed to have been mailed from central print, there was potentially a processing error, and Respondent was unable to comply with the requirements. His MA case should not have been closed.

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.

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. Redetermine Petitioner's MA eligibility;
2. If otherwise eligible, issue supplements to Petitioner or on his behalf for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/cg



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 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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Saginaw-Hearings
D. Smith
EQAD
BSC2-Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

