



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: November 17, 2023
MOAHR Docket No.: 23-005150
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held via telephone conference on October 19, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Princess Ogundipe, supervisor.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medicare Savings Program (MSP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of June 2023, Petitioner was a recipient of Medicaid and MSP benefits with a benefit period certified through August 2023.
2. On June 5, 2023, MDHHS mailed Petitioner redetermination documents to continue Medicaid and MSP benefits.
3. On August 8, 2023, MDHHS mailed Petitioner another MA redetermination form after Petitioner called to complain she did not receive the Redetermination form sent on June 5, 2023.

4. On August 18, 2023, MDHHS initiated termination of Petitioner's Medicaid and MSP eligibility beginning September 2023 due to Petitioner's failure to return a Redetermination form.
5. On August 24, 2023, Petitioner requested a hearing to dispute the closure of Medicaid and MSP benefits.
6. As of September 1, 2023, Petitioner had not returned the Redetermination form to MDHHS.
7. On October 18, 2023, MDHHS issued Medicaid to Petitioner beginning September 2023 and MSP benefits beginning October 2023.

CONCLUSIONS OF LAW

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of Medicaid eligibility beginning September 2023. Exhibit A, pp. 3-7. It was not disputed that Petitioner reapplied for MA benefits on September 6, 2023, resulting in approvals for Medicaid and MSP. A Health Care Coverage Determination Notice dated October 18, 2023, stated that Petitioner was approved for Medicaid beginning September 2023. Exhibit B, pp. 1-7. Because Petitioner received continuing Medicaid benefits beginning the month after closure, there is no additional administrative remedy to be had. Accordingly, Petitioner's hearing request will be dismissed concerning the dispute over Medicaid.

Petitioner also requested a hearing to dispute a termination of MSP benefits beginning September 2023. Exhibit A, pp. 3-7. Petitioner's application dated September 6, 2023, resulted in a restarting of MSP benefits; however, Petitioner was approved for MSP beginning October 2023. Thus, Petitioner did not receive MSP benefits in September 2023. Due to the single month loss of MSP benefits, administrative hearing jurisdiction exists to evaluate whether the termination of MSP benefits beginning September 2023 was proper. A Health Care Coverage Determination Notice dated August 18, 2023, stated that Petitioner's MSP eligibility would end September 2023 due to Petitioner's failure to return a Redetermination form. Exhibit A, pp. 19-22.

For all programs, MDHHS must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2022) p. 1. The process includes a

thorough review of all eligibility factors.¹ *Id.* For all programs, the MDHHS mails a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. A Redetermination form is considered complete when all sections are completed. *Id.* p. 11. MDHHS sends timely notice of closure if documents are not timely returned. *Id.*, p. 17. MA benefits stop at the end of the benefit period unless a renewal is completed, and a new benefit period is certified. *Id.*, p. 4.

MDHHS contended it properly sent Petitioner a Redetermination form for MA benefits on June 5, 2023. Exhibit A, pp. 10-18. It was not disputed that Petitioner did not return the form by the due date of July 5, 2023. Petitioner testified she did not return the form because she did not receive it.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Notably, the Redetermination form included the address confirmed during the hearing by Petitioner as her mailing address. Because Redetermination forms are sent by automation, it is probably the form was properly addressed and stamped by MDHHS. Petitioner presented no evidence other than her uncorroborated testimony that she did not receive the form. The evidence established an unrebutted presumption that Petitioner received the Redetermination.

Though Petitioner did not return the Redetermination by the due date of July 5, 2023, she had until the end of the benefit period to return the form. Petitioner called MDHHS on August 8, 2023, to request another form. MDHHS responded by mailing a Redetermination form on the same date of Petitioner's call. Exhibit A, p. 23. MDHHS testified that Petitioner returned the first page of the redetermination form with her hearing request on August 24, 2023, but not the additional pages addressing eligibility factors such as income and assets. Petitioner testified she mailed all redetermination form pages. Petitioner's hearing request acknowledged she was confused by the Redetermination form she received shortly after August 8, 2023, because it included a June 5, 2023, mailing date and July 5, 2023, due date. MDHHS credibly testified it could not send Petitioner a form Redetermination form with different dates. Thus, Petitioner was not entitled to updated due dates on the redetermination form. Petitioner's confusion by the due dates suggests possible confusion in returning all pages of the Redetermination form. A claim of returning the Redetermination form would have been more persuasive if Petitioner made the claim within her written hearing request; notably, Petitioner did not include this claim. The evidence failed to establish that Petitioner returned a Redetermination form to MDHHS before the end of August 2023.

Petitioner also contended she should not have had to return a Redetermination for MA benefits because her FAP benefit eligibility was recently. In other words, Petitioner

¹ For Medicaid, an annual review of all eligibility programs is called a "renewal". For all other programs, the process is a "redetermination". BAM 210 (October 2019) p. 1.

contended MDHHS should have redetermined her MA eligibility when her FAP eligibility was redetermined. Bridges, the MDHHS database, sets the redetermination/renewal date according to benefit periods. BAM 210 (October 2022) p. 3. Clients have no entitlement to combine program redeterminations. Thus, MDHHS did not improperly fail to redetermine Petitioner's MA when determining Petitioner's FAP eligibility.²

The evidence established that MDHHS properly sent Petitioner a Redetermination form for MA benefits and that Petitioner failed to return the form before the end of the benefit period ending after August 2023. Thus, MDHHS properly terminated Petitioner's MSP eligibility beginning September 2023.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds there is no administrative remedy available for the termination of Medicaid benefits beginning September 2023 after reapplying and receiving MA benefits beginning September 2023. Concerning Medicaid, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's MSP eligibility beginning September 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
Administrative Law Judge

² Furthermore, each MDHHS program has its own distinct eligibility factors. For example, FAP benefits generally do not factor assets; generally, MA benefits do factor assets (see BEM 400).

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-Electronic Mail :

DHHS
Yaita Turner
Oakland County Pontiac-Woodward
Dist.
51111 Woodward Ave 5th Floor
Pontiac, MI 48342
**MDHHS-Oakland-District-IV-
Hearings@michigan.gov**

Interested Parties
Oakland 4 County DHHS
BSC4
D. Smith
EQAD
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]