

**STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909  
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

██████████

Appellant

\_\_\_\_\_ /

Docket No. 2009-30071 EDW

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████ (Appellant) appeared and testified on his own behalf. Also appearing as a witness for the Appellant was his care provider, ██████████.

██████████, Waiver Program Director, appeared on behalf of the ██████████, a Department waiver agency for the MI Choice Waiver program (hereafter, 'Department').

**ISSUE**

Did the Department properly terminate the Appellant MI Choice services?

**FINDINGS OF FACT**

Based upon the competent, material and substantial evidence presented, I find, as material fact:

1. The Appellant was a Medicaid beneficiary based on disability, who, pending the outcome of the hearing, is also enrolled in the MI Choice Waiver program.

2. On or around ██████████, the Department of Human Services (DHS) terminated the Appellant's Medicaid services. MI Choice Waiver services were also terminated since they are dependent on Medicaid eligibility.
3. On ██████████, the Appellant filed his Request for Hearing with the State Office of Administrative Hearings and Rules for the Department of Community Health.

## **CONCLUSIONS OF LAW**

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Effective November 1, 2004, the Michigan Department of Community Health (MDCH) implemented revised functional/medical eligibility criteria for Medicaid nursing facility, MI Choice, and PACE services. Federal regulations require that Medicaid pay for services only for those beneficiaries who meet specified level of care criteria. Nursing facility residents must also meet Pre-Admission Screening/Annual Resident Review requirements.

It is undisputed the Appellant meets functional/medical eligibility criteria for the nursing facility level of care. It is also undisputed that, on or around ██████████, DHS terminated the Appellant's Medicaid coverage. MI Choice Waiver program beneficiaries must be Medicaid-eligible, as articulated by the following policy statement:

### **4.1 MI CHOICE WAIVER (HOME AND COMMUNITY-BASED WAIVER FOR THE ELDERLY and DISABLED)**

#### **4.1.A. ELIGIBLE BENEFICIARIES**

The MI Choice Waiver provides services to aged and physically disabled individuals 18 years old and over who are U.S. citizens, who want to stay in their homes or another residential setting, but without the provision of waiver service(s), would require the level of care only available in a nursing facility. Income and assets requirements and restrictions apply. *Individuals must be currently Medicaid approved or be Medicaid eligible if they were to enter a nursing facility.* MDCH contracts with local agencies to administer this program. (*Emphasis supplied by ALJ*)

The Appellant acknowledges that DHS terminated his Medicaid coverage. He indicated he is doing everything he can to find out why, and that his re-application for benefits was denied. The Appellant otherwise offered no challenge to the waiver agency's termination due to ineligible status.

**DECISION AND ORDER**

Based on the above findings of fact and conclusions of law, I decide that the Department properly terminated the Appellant's MI Choice Waiver program services due to loss of Medicaid eligibility.

**IT IS THEREFORE ORDERED** that:

The Department's decision is **AFFIRMED**.

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Stephen B. Goldstein  
Administrative Law Judge  
for Janet Olszewski, Director  
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 10/15/2009

**\*\*\* NOTICE \*\*\***

The State Office of Administrative Hearings and Rules may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The State Office of Administrative Hearings and Rules will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.