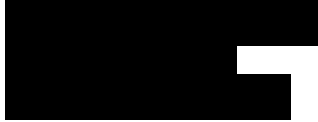


STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-14427  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: February 16, 2011  
Wayne County DHS (57)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on February 16, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

**ISSUE**

Whether DHS properly terminated Claimant's Medical Assistance (MA) benefits due to Claimant's alleged exhausted appeals of Social Security Administration (SSA) 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. Claimant was an ongoing MA benefit recipient.
2. Claimant received ongoing Medicaid from DHS by virtue of being a disabled individual.
3. While Claimant received Medicaid, Claimant sought SSA benefits.
4. On 1/4/11, Claimant's specialist received an email from Ella Morris, SSI Advocate, which stated that Claimant was denied SSA benefits by the Appeals Council of SSA.
5. On 1/6/11, DHS terminated Claimant's ongoing MA benefits effective 2/2011 because Claimant failed to become eligible for SSA benefits after exhausting all SSA appeals.

6. On 1/10/11, Claimant requested a hearing disputing the termination of SSA benefits, specifically disputing that her SSA claim was denied by the SSA Appeals Council.

### **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

DHS has an interest in insuring that MA clients pursue SSA benefits. The income and medical coverage that clients might receive through SSA could relieve some of the DHS responsibility in issuing benefits. As part of the process in insuring that clients pursue SSA benefits, DHS specialists are given specific procedures for following a client's progress within the SSA benefit application process. Once SSA's decision is final, the local DHS office must close an MA case if SSA determines that disability or blindness do not exist if:

- The determination was made after 1/1/90, and
  - No further appeals may be made at SSA
- or
- The client failed to file an appeal at any step within SSA's 60 day limit, and
  - The client is not claiming a totally different disabling condition than the condition SSA based its determination on, or an additional impairment(s) or change or deterioration in his condition that SSA has not made a determination on. BEM 271 at 8 and 9.

In the present case, Claimant's DHS specialist terminated Claimant's MA benefits after learning that Claimant was denied SSA benefits after exhausting her SSA appeals. The verification relied on by DHS was an email (Exhibit 2) dated 1/4/11 from Ms. Ella Morris which stated Claimant's "SSI application was denied by Appeals Council". The undersigned allowed the email as evidence that Claimant was denied by the SSA

Appeals Council; however, the undersigned can only give the email limited consideration because the source of the email failed to testify concerning its contents.

Claimant testified that she was not denied by the SSA Appeals Council and provided a document verifying her testimony. Claimant provided a SSA document (Exhibit 1) dated 2/9/11 which indicated that Claimant's appeal before the SSA Appeals Council is pending. Claimant also provided testimony that she has no knowledge of being denied SSA benefits by the SSA Appeals Council.

Claimant's SSA document, assuming authenticity, would be first-hand evidence, evidence directly from the source with knowledge. Claimant also provided supportive testimony that the Appeals Council has yet to consider Claimant's claim for SSA benefits. The DHS evidence was second-hand evidence, evidence not from a source with direct knowledge. More importantly, the DHS staff member that sent the email to Claimant's DHS specialist was not available to testify concerning the accuracy of the email's content. It is found that Claimant's document from SSA which verified that Claimant's SSA claim is pending before the SSA Appeals Council is more reliable than the contradictory evidence relied on by DHS. Accordingly, it is found that DHS improperly terminated Claimant's MA benefits because DHS failed to establish that Claimant exhausted her SSA appeals.

It should be noted that it is not found that Claimant's claim is pending before the SSA Appeals Council. It is only found that for purposes of the 1/6/11 MA benefit termination, DHS failed to establish a basis for the benefit termination. If DHS is able to verify that Claimant's SSA application was denied by the SSA Appeals Council, DHS may proceed with termination of Claimant's MA benefits in the future.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's ongoing MA benefits. It is ordered that DHS reinstate Claimant's ongoing MA benefits effective 2/2011. The actions taken by DHS are REVERSED.



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Christian Gardocki  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: 2/23/2011

Date Mailed: 2/23/2011

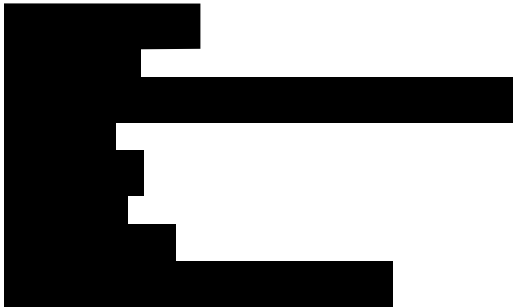
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**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CG/JG

cc:

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