

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-25859
Issue No.: 2027, 5016
Case No.: [REDACTED]
Hearing Date: May 11, 2011
DHS County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; M SA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on May 11, 2011. The Claimant appeared and testified.

ISSUE

Did the Department of Human Services (DHS or Department) properly close the Claimant's Medical Assistance (MA) and deny the Claimant's State Emergency Relief (SER)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an SSI recipient and an on going MA recipient.
2. On September 27, 2010, the Claimant applied for an SER for utility costs.
3. On January 31, 2011, the Department closed the Claimant's MA because his SSI was closed.
4. On March 22, 2011, the Claimant filed a request for a hearing.

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 (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 Bridges Reference Manual (BRM).

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department (formerly known as the Family Independence Agency) policies are found in the State Emergency Relief Manual (SER).

In the instant case, the Claimant's SSI was closed and the Department closed his MA.

FIP AND SSI TERMINATIONS

Most terminations of FIP or SSI benefits must include an evaluation of MA eligibility. See BEM 110 for FIP terminations and BEM 150 for SSI terminations.

MA-ONLY TERMINATIONS

An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220.

Consider eligibility under all other MA-only categories before terminating benefits under a specific category. In addition, when Group 1 eligibility does not exist but all eligibility factors except income are met for a Group 2 category, activate deductible status; see BEM 545. (BEM 105, pp. 4-5).

In addition policy states:

MA While Appealing Disability Termination

MA eligibility continues for an individual who:

Has been terminated from SSI because he is no longer considered disabled or blind, and

See [BEM 260](#) about SSI denial codes.

Has filed an appeal of the termination with SSA within SSA's 60-day time limit, and

See [BEM 260](#) for information about the SSA appeal process and appeal codes.

Is a Michigan resident.

Other eligibility factors such as income, assets and third party resource liability are **not** an issue.

MA eligibility continues until the person:

Exhausts his SSA appeal rights, or

Fails to file an appeal at any step within SSA's 60-day time limit, or

Is no longer a Michigan resident. (BEM 150, p. 6).

This Administrative Law Judge finds that the Department did not follow the above requirements.

As to the question of the SER the Claimant applied for an SER for help with his utility bill on September 27, 2010. The Claimant requested this hearing on March 22, 2011.

Deadlines for Requesting a Hearing

All Programs

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. (BAM 600, p. 4).

Here, the question of the denial of the SER is well beyond the 90-day limit placed on hearing requests.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to reopen the Claimant's MA back to

closure and follow the above policy to evaluate if the Claimant qualifies for any other MA program. The SER question is DISMISSED as being past the 90-day limit.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 22, 2011

Date Mailed: June 23, 2011

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.

MJB/cl

cc:

