

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**
P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

██████████,

Appellant

_____ /

Docket No. 2012-50361EDW

Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge, pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████ Appellant's care provider, appeared and testified on Appellant's behalf. ██████████ Waiver Services Director, appeared and testified on behalf of the Department of Community Health's Waiver Agency, the Region II Area Agency on Aging ("Waiver Agency" or "AAA").

ISSUE

Did the Waiver Agency properly terminate Appellant's services through the MI Choice waiver program?

FINDINGS OF FACT

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

1. AAA is a contract agent of the Michigan Department of Community Health (MDCH) and is responsible for the provision of MI Choice waiver services.
2. Appellant accepted into the MI Choice waiver program through AAA and approved for services. ██████████
3. Subsequently, a staff member from the Michigan Department of Human Services (DHS) notified AAA staff that Appellant was financially ineligible for the waiver program and that her services had to be terminated. ██████████
4. Appellant was verbally informed of DHS's determination regarding financial eligibility and the end of Appellant's waiver services. ██████████

A waiver under section 1915(c) of the [Social Security] Act allows a State to include as “medical assistance” under its plan, home and community based services furnished to recipients who would otherwise need inpatient care that is furnished in a hospital, SNF [Skilled Nursing Facility], ICF [Intermediate Care Facility], or ICF/MR [Intermediate Care Facility/Mentally Retarded], and is reimbursable under the State Plan.

(42 CFR 430.25(c)(2))

However, while regional agencies such as AAA function as the Department’s administrative agency, determinations regarding financial eligibility for the MI Choice Waiver Program are made by DHS:

2.1 FINANCIAL ELIGIBILITY

Medicaid reimbursement for MI Choice services requires a determination of Medicaid financial eligibility for the applicant by the Michigan Department of Human Services (MDHS). As a provision of the waiver, MI Choice applicants benefit from an enhanced financial eligibility standard compared to basic Medicaid eligibility. Specifically, MI Choice is furnished to participants in the special home and community-based group under 42 CFR §435.217 with a special income level equal to 300% of the SSI Federal Benefit Rate. Medicaid eligibility rules stipulate that participants are not allowed to spend down to achieve an enhanced financial eligibility standard.

(Medicaid Provider Manual, MI Choice Waiver Chapter
January 1, 2012, page 2)

Given that policy, AAA must rely on the determination of financial eligibility made by DHS and, in this case, it properly ended services after DHS made the determination that Appellant was financially ineligible. Similarly, it properly reinstated services after DHS determined that Appellant was once again financially eligible.

Appellant’s primary issue in this case is not properly before this court. Appellant’s representative stated that Appellant wished to dispute the determination of financial ineligibility. It was explained that the Department of Human Services (DHS) office has jurisdiction over eligibility issues, not the Department of Community Health (DCH) or the Waiver Agency. Appellant has been advised to file a hearing request in the appropriate forum so that a separate hearing can be scheduled to address the eligibility determination with DHS.

Docket No. 2012-50361 EDW
Decision and Order

Given the understandable confusion regarding where to file the appeal and the fact that Appellant's request for hearing clearly included the issue of financial eligibility, Appellant's 90-day time period for requesting a hearing with DHS should be extended to 90 days from the date of this hearing.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Waiver Agency properly terminated Appellant's services through the MI Choice waiver program.

IT IS THEREFORE ORDERED that:

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

Steven J. Kibit
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

A large black rectangular redaction box covers the names of the recipients listed under the 'cc:' field.

Date Mailed: 6.27.2012

***** NOTICE *****

The Michigan Administrative Hearing System 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 Michigan Administrative Hearing System 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.