

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant

_____ /

Docket No. 2012-9571 EDW
Case No. 95051201

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ), pursuant to M.C.L. § 400.9 and 42 C.F.R. § 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on her own behalf. ██████████, Waiver Services Director, represented the Department of Community Health's Waiver Agency, the ██████████ Area Agency on Aging ("Waiver Agency" or "AAA"). ██████████, Registered Nurse and Case Manager, also testified as a witness for the Waiver Agency.

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 waiver eligibility determinations and the provision of MI Choice waiver services.
2. Appellant is enrolled in and has been receiving MI Choice waiver services, such as home delivered meals and homemaking services, through AAA. (Testimony of ██████████).
3. Appellant is no longer on Medicaid and is now receiving Medicare. (Testimony of Appellant).

4. On ██████████, AAA sent Appellant a notice that it was terminating her services because her Medicaid is not effective. (Testimony of ██████████).
5. On ██████████, the Department received Appellant's request for an administrative hearing.
6. Due to Appellant's timely request for hearing, her waiver services have been continued pending the outcome of this hearing. (Testimony of Appellant; Testimony of ██████████).

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. 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.

Appellant is receiving services through the Department's Home and Community Based Services for the Elderly and Disabled. The waiver is called MI Choice in Michigan. The program is funded through the federal Centers for Medicare and Medicaid (formerly HCFA) to the Michigan Department of Community Health (Department). Regional agencies, in this case AAA, function as the Department's administrative agency.

Waivers are intended to provide the flexibility needed to enable States to try new or different approaches to the efficient and cost-effective delivery of health care services, or to adapt their programs to the special needs of particular areas or groups of recipients. Waivers allow exceptions to State plan requirements and permit a State to implement innovative programs or activities on a time-limited basis, and subject to specific safeguards for the protection of recipients and the program. Detailed rules for waivers are set forth in subpart B of part 431, subpart A of part 440 and subpart G of part 441 of this chapter.

(42 C.F.R. § 430.25(b))

In order to remain eligible for such services, Appellant must have active Medicaid eligibility:

Section 2 - Eligibility

The MI Choice program is available to persons 18 years of age or older who meet each of three eligibility criteria:

- An applicant must establish his/her financial eligibility for Medicaid services as described in the Financial Eligibility subsection of this chapter . . .

(Attachment to Medical Services Administration
Policy Bulletin 11-27 (June 28, 2011), page 2)

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 individuals 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.

(Attachment to Medical Services Administration
Policy Bulletin 11-27 (June 28, 2011), page 2)

In this case, however, AAA submitted testimony providing that Appellant's Medicaid became inactive as of ██████████. (Testimony of ██████; Testimony of ██████). Moreover, Appellant's own testimony confirms that she no longer has active Medicaid status. (Testimony of Appellant). Therefore, the Waiver Agency's decision must be sustained. If Appellant's Medicaid status changes in the future, she can reapply for the waiver program.

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 MI Choice waiver services.

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:



Date Mailed: 1/26/2012

***** 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.