

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

**IN THE MATTER OF:**



Reg. No.: 201318349  
Issue No.: 2027  
Case No.: [REDACTED]  
Hearing Date: May 7, 2013  
County: Oakland DHS (03)

**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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on May 7, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

**ISSUE**

The issue is whether DHS properly terminated Claimant's Medical Assistance following the termination of Claimant's eligibility for Supplemental Security Income (SSI).

**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 SSI and MA benefit recipient.
2. On an unspecified date, Social Security Administration terminated Claimant's SSI eligibility.
3. On 11/1/12, as part of an ex parte review, DHS mailed Claimant an Assistance Application and a Verification Checklist with a due date of 11/13/12.
4. On 11/15/12, DHS initiated termination of Claimant's MA benefit eligibility, effective 12/2012, due to Claimant's failure to return the Assistance Application.
5. On 12/11/12, Claimant requested a hearing to dispute the MA benefit termination.

6. On 12/12/12, Claimant submitted an Assistance Application to DHS.

### **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). DHS 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).

Prior to a substantive analysis, it should be noted that Claimant's hearing request listed that she had an authorized hearing representative (AHR). The AHR did not appear for the hearing and the hearing occurred with Claimant representing herself.

Claimant requested a hearing to dispute a termination of MA benefits. DHS established that Claimant was an SSI recipient, but that her SSI eligibility ended around 5/2012.

When SSI benefits stop, central office evaluates the reason based on SSA's negative action code, then does one of the following (*Id.*, p. 5):

- SSI Closure. MA-SSI is closed in Bridges if SSI stopped for a reason that prevents continued MA eligibility (for example, death, moved out of state). Bridges sends the recipient a DHS-1605.
- SSI cases not closed due to the policy above are transferred to the SSI Termination (SSIT) Type of Assistance. A redetermination date is set for the second month after transfer to allow for an ex parte review.

Claimant testified that she began receiving Retirement, Survivors, Disability Insurance (RSDI) following the termination of SSI benefits. This is persuasive evidence that Claimant is still a disabled individual and that DHS is required to perform an ex parte review prior to terminating MA benefit eligibility.

An ex parte review 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. *Id.* When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. *Id.* The review includes consideration of all MA categories. *Id.* When an SSI-T EDG is set in Bridges, the specialist will receive the following Task/Reminder (T/R): send DHS-1171 to client as Medicaid Transitional SSI case newly Certified. *Id.* If continued MA eligibility does not exist, use standard negative action procedures. *Id.*

In the present case, DHS mailed Claimant an Assistance Application on 11/1/12. Presumably, DHS needed a completed application so that Claimant could be evaluated for MA categories other than MA based on receipt of SSI benefits. It should be noted that MA based on receipt of SSI is automatic; no application or verification is required.

All other probable MA categories factor income and assets. Thus, it would appear that DHS appropriately expected Claimant to return an Assistance Application so that a record could be started concerning Claimant's asset and income eligibility.

An ex parte review is a determination made by the department without the involvement of the recipient, the recipient's parents, spouse, authorized representative, guardian, or other members of the recipient's household. BPG Glossary (10/2012), p. 16. It is based on a review of all materials available to the specialist that may be found in the recipient's current Medicaid eligibility case file. *Id.*

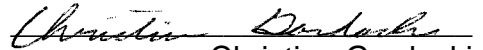
An ex parte review, by definition, is performed without a Claimant's participation. Thus, DHS cannot terminate a client's MA benefit eligibility based on a Claimant's failure to participate in an ex parte review. Accordingly, the MA benefit termination is found to be improper.

### **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 MA benefit eligibility. It is ordered that DHS:

- (1) reinstate Claimant's MA benefit eligibility, effective 12/2012 subject to the finding that Claimant was compliant with ex parte review procedures; and
- (2) determine Claimant's MA benefit eligibility solely based on information within Claimant's case file.

The actions taken by DHS are REVERSED.

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

Date Signed: 5/16/2013

Date Mailed: 5/16/2013

**NOTICE:** Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

The Claimant 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 date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at  
Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

CG/hw

cc:

