

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-54508
Issue No.: 2018
Case No.: [REDACTED]
Hearing Date: August 21, 2013
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 August 21, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's friend, [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED] Assistant Payment Worker.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) benefits effective July 1, 2013, ongoing?

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 recipient of MA benefits. Exhibit 1.
2. On June 10, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA benefits would be closed effective July 1, 2013, ongoing. Exhibit 1.
3. On June 20, 2013, Claimant filed a hearing request, protesting the Department's action. Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the 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.

In this case, Claimant was an ongoing recipient of MA benefits. Exhibit 1. On June 10, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA benefits would be closed effective July 1, 2013, ongoing. Exhibit 1.

MA is available to former Supplemental Security Income (SSI) recipients who receive Retirement, Survivors, and Disability Insurance (RSDI) benefits and would now be eligible for SSI if RSDI cost-of-living increases paid since SSI eligibility ended were excluded. BEM 155 (July 2010), p. 1. The reason for SSI ineligibility does not matter. BEM 155, p. 1. This is an SSI-related Group 1 MA category. BEM 155, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 155, p. 1. BEM 155 also lists the nonfinancial eligibility factors. BEM 155, pp. 1-2.

Also, a person eligible for RSDI benefits based on his disability or blindness meets the disability or blindness criteria. BEM 260 (July 2012), p. 1. Disability or blindness starts from the RSDI disability onset date established by the Social Security Administration (SSA). BEM 260, p. 1. This includes a person whose entire RSDI benefit is being withheld for recoupment. BEM 260, p. 1. No other evidence is required. BEM 260, p. 1.

At the hearing, the Department testified that Claimant received SSI. However, effective December 2012, Claimant's SSA income changed to RSDI due to her monthly spouse's benefits. See Exhibit 1. Claimant would begin receiving \$ [REDACTED] in RSDI benefits. See Exhibit 1. The Department testified that Claimant is not over the age of 65, blind, or disabled. The Department testified that it attempted to run a SOLQ report to see if Claimant was disabled. However, the Department presented evidence that it received no response from the SOLQ report. See Exhibit 1. Based on this information, the Department testified that Claimant was no longer eligible for SSI Medicaid because Claimant is not over the age of 65, blind, or disabled. See Exhibit 1. Moreover, the Department testified that Claimant did not meet the requirements of BEM 155 and 260, thus she was not eligible to continue receiving SSI-related Group 1 MA coverage.

Claimant testified that she is disabled. Claimant agreed that she received \$ [REDACTED] in RSDI benefits effective December 2012, ongoing, based on her monthly spouse's benefits. However, Claimant testified that she was found to be disabled by a Social Security Administrative Judge.

It should be noted that the Department testified that it did not conduct an ex parte review to determine if Claimant can continue receiving SSI Medicaid and/or if she is eligible for other MA coverage. Also, the hearing summary stated that Claimant can submit a new application to determine if she is eligible for a different MA program. See Hearing Summary, Exhibit 1.

Regarding MA-only terminations, 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. BEM 105 (October 2010), p. 4. When possible, an ex parte review should begin at least 90 days before the anticipated

change is expected to result in case closure. BEM 105, p. 4. The review includes consideration of all MA categories. BEM 105, p. 4.

The Department considers eligibility under all other MA-only categories before terminating benefits under a specific category. BEM 105, p. 4. 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. BEM 105, pp. 4-5.

Based on the foregoing information and evidence, the Department improperly closed Claimant's MA benefits effective July 1, 2013, ongoing. The Department testified that it did not conduct an ex parte review to determine if Claimant is eligible for other MA categories. Additionally, the Department testified that Claimant can apply for a new application and determine her eligibility. See Hearing Summary, Exhibit 1. This is the incorrect procedure. The Department will have to reinstate Claimant's MA benefits and conduct an ex parte review to determine if Claimant can continue receiving SSI Medicaid and/or if she is eligible for other MA coverage.

DECISION AND ORDER

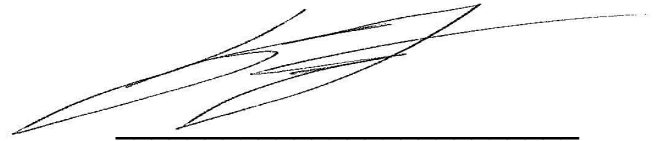
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department improperly closed Claimant's MA benefits effective July 1, 2013, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate reinstatement of Claimant's MA case as of July 1, 2013, ongoing;
2. Initiate determination of Claimant's MA eligibility (ex parte review) as of July 1, 2013, ongoing;
3. Begin recalculating the MA budget for July 1, 2013, ongoing, in accordance with Department policy;
4. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive but did not from July 1, 2013, ongoing; and

5. Begin notifying Claimant in writing of its MA decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 27, 2013

Date Mailed: August 27, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

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The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/las

cc:

