

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

IN THE MATTER OF:

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Reg. No.: 2013-60007
Issue No.: 2001
Case No.: ██████████
Hearing Date: December 4, 2013
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 4, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; ██████████

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Participants on behalf of the Department of Human Services (Department) included ██████████

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case and deny her MA application?

FINDINGS OF FACT

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

1. In June 2012, Claimant applied for Supplemental Security Income (SSI) benefits with the Social Security Administration (SSA).
2. On October 19, 2012, the Department sent Claimant a Notice of Case Action approving her for MA effective September 1, 2012, based on her receipt of SSI.
3. In October 2012, the SSA terminated Claimant's SSI.

4. On December 15, 2012, the Department sent Claimant a Notice of Case Action notifying her that she was approved for Terminated SSI MA (SSIT) effective February 1, 2013.
5. On June 3, 2013, Claimant applied for MA alleging a disability.
6. On July 5, 2013, the Department denied the application because she was eligible for MA in another case and because she was not blind, disabled, pregnant, the parent/caretaker relative of a dependence child, or within the age requirements.
7. On July 15, 2013, Claimant's AHR filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Additionally, Claimant requested a hearing concerning her MA case. At the hearing, the Department testified that Claimant had active MA coverage at the time her MA application was denied on July 5, 2013, and when her request for hearing was filed on July 15, 2013. However, her MA case closed effective August 31, 2013.

The evidence at the hearing established that Claimant had received SSI benefits for a brief period in 2012. SSI recipients are automatically eligible for MA if they are Michigan residents and cooperate with third-party resource liability requirements. BEM 150 (June 2011 and March 2013), p. 1. At the hearing, the Department established that it notified Claimant on October 19, 2012, that she was approved for MA for SSI recipients effective September 1, 2012. Thus, the Department approved Claimant for MA for SSI recipients in accordance with Department policy.

Shortly after receiving her first SSI benefit, Claimant received a letter from the SSA denying her SSI benefits. When SSI benefits stop, the Department evaluates the reason based on the SSA's negative action code, then either closes the MA-SSI case if SSI stopped for a reason that prevents continued MA eligibility or transfers the client's MA case to SSI Termination (SSIT) type of assistance until a redetermination is completed to allow for an *ex parte* review of Claimant's eligibility for other MA categories. BEM 150, p. 5; BAM 220 (November 2012), p. 14.

In this case, the Department sent Claimant a Notice of Case Action on December 15, 2012, notifying her that she was receiving SSIT MA benefits effective February 1, 2013. The Department testified that Claimant continued to receive SSIT MA until August 31, 2013, when her MA case closed, and presented an eligibility summary showing that Claimant had uninterrupted MA coverage from the date of approval through August 31, 2013. Accordingly, when Claimant applied for MA on June 3, 2013, the Department properly denied the application in a July 5, 2013, Notice of Case Action on the basis that she had coverage at the time of application.

The Department established that Claimant's MA case closed on August 31, 2013. However, before closing a client's MA-SSI case, the Department must conduct an *ex parte* review at least 90 days before the anticipated change is expected to result in case closure to determine the client's eligibility under all other MA categories. BEM 150, p. 5. Furthermore, MA eligibility must continue for an individual who (i) has been terminated from SSI because he is no longer considered disabled or blind, and (ii) has filed an appeal of the termination of the SSA within the SSA's 60-day time limit, and (iii) is a Michigan resident. BEM 150, p. 6. MA eligibility continues until the person exhausts his SSA appeals rights or fails to file an appeal at any step within the SSA 60-day time limit, or is no longer a Michigan resident. BEM 150, p. 6.

The Single Online Query (SOLQ), the Department's data exchange with the SSA, shows that Claimant timely filed an appeal of the termination with the SSA when she was notified that she was no longer eligible for SSI benefits. It is unclear from the SOLQ whether Claimant was approved for one month based on a finding of disability or in error. To the extent the SSA determined that Claimant was no longer disabled, the Department did not act in accordance with Department policy when it closed Claimant's MA case pending the SSA appeal.

However, even if the SSA's approval was erroneous and the SSA subsequently concluded that Claimant was not eligible for SSI, Claimant identified herself as disabled in her June 3, 2013, MA application, thereby putting the Department on notice that she might additionally be eligible for disability-based MA. Therefore, in the *ex parte* review before closing Claimant's SSIT case, the Department should have considered Claimant's eligibility for other disability-based MA coverage. By failing to do so, the Department did not act in accordance with Department policy.

It is further noted that Claimant's attorney testified at the hearing that Claimant had been approved by the SSA administrative law judge for SSI benefits on her appeal at a hearing held on October 15, 2013, with a disability established as of September 23, 2011, but no written decision or award letter had yet been issued. Because Claimant has notified the Department of her SSI approval, the Department is required to activate Transitional SSI (TSSI) coverage in accordance with Department policy. BEM 150, pp. 3-5.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's MA case.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's MA case as of September 1, 2013;
2. Provide Claimant with MA coverage she is eligible to receive from September 1, 2013, ongoing; and
3. Allow Claimant's providers to bill for medical services provided to Claimant.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 6, 2013

Date Mailed: December 9, 2013

NOTICE OF APPEAL: 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.

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).

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.

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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.

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

ACE/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]