

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201321794
Issue No: 2027
Case No: [REDACTED]
Hearing Date: May 16, 2013
Washtenaw County DHS (20)

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on December 21, 2012. After due notice, a telephone hearing was held on May 16, 2013. Claimant appeared and provided testimony and Claimant's mother, [REDACTED], appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], an eligibility specialist with the department's Washtenaw County office

ISSUE

Whether the department properly closed Claimant's Medical Assistance (MA) SSI Recipients Medicaid benefits?

FINDINGS OF FACT

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

1. Claimant was a recipient of MA SSI Recipients Medicaid at all times relevant to this hearing.
2. In December 2012, the department received information from a SOLQ report that Claimant's SSI benefits were being terminated effective November 1, 2012 due to excess income. (Department Exhibit 4)
3. When SSI benefits stop, the department evaluates the reason based on SSA's negative action code as set forth in BEM 150, MA for SSI Recipients. According to the SOLQ, the negative action code was N01, which indicates excess income. (Department Exhibit 4)

4. Despite Claimant's SSI having been terminated due to excess income, the department did not transfer Claimant's MA case SSI Termination Type of Assistance as required by BEM 150.
5. On December 17, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that his MA SSI Recipients Medicaid benefits would be closed effective February 1, 2013 for the reason that he is not blind, disabled, pregnant, aged, or the parent/caretaker relative of a dependent child. (Department Exhibits 1, 2, 3, 4)
6. On December 19, 2013, Claimant submitted a hearing request protesting the department's closure of his SSI Recipients Medicaid benefits. (Request for a Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Medical Assistance (MA) program was established by 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 (DHS or department) 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 Program Reference Manual (PRM).

Supplemental Security Income (SSI) is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. The Social Security Administration (SSA) determines SSI eligibility. In Michigan, DHS supplements federal SSI payments based on the client's living arrangement. Thus, in this item SSI recipient means a Michigan resident who receives the basic federal payment, the state supplement, or both. BEM 150.

To be automatically eligible for Medicaid (MA) an SSI recipient must both be a Michigan resident and cooperate with third-party resource liability requirements. DHS administers MA for SSI recipients, including a continued MA eligibility determination when SSI benefits end. BEM 150.

SSI recipients who are Michigan residents receive MA-SSI from the department for the duration of SSI eligibility. Redeterminations are not conducted, however, if SSI stops, the department may determine continued MA eligibility. BEM 150.

When SSI benefits stop, the department evaluates the reason based on the SSA's negative action code, then does one of the following:

- **SSI Closure.** MA-SSI is closed by the department if SSI stopped for a reason that prevents continued MA eligibility (for example, death, moved out of state). The department sends the recipient an DHS-1605. BEM 150.
- **Transfer to SSIT.** 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. 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. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories. BEM 150.

BEM 150 further provides that, with respect to cases transferred to SSIT, the department's local office is responsible for determining whether the client qualifies for MA under:

- MA While Appealing Disability Termination in this item, or
- Any other MA category; see BEM 105.

In this case, the department received information that Claimant's SSI was being terminated on November 1, 2012, because he had excess income. Thereafter, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that his MA SSI Recipients Medicaid benefits would be closed effective February 1, 2013 for the reason that he is not blind, disabled, pregnant, aged, or the parent/caretaker relative of a dependent child.

At the May 16, 2013 hearing, the department's representative offered no testimony or evidence establishing that the department, upon learning that Claimant's SSI benefits were being terminated, properly transferred Claimant's MA case to SSI Termination Type of Assistance and thereafter determined whether Claimant qualifies for MA under other categories as set forth in BEM 150.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine.

Dep't of Community Health, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

Accordingly, the Administrative Law Judge finds that based on the competent, material, and substantial evidence presented during the hearing, the department did not act in accordance with policy when it closed Claimant's MA SSI Recipient Medicaid benefits without transferring Claimant's MA case to SSI Termination Type of Assistance and thereafter determining whether Claimant qualifies for MA under other categories as set forth in BEM 150.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act in accordance with policy when it closed Claimant's MA SSI Recipient Medicaid benefits without transferring Claimant's MA case to SSI Termination Type of Assistance and thereafter determining whether Claimant qualifies for MA under other categories as set forth in BEM 150. Accordingly, department's actions in this regard are **REVERSED** and the department is **ORDERED** to immediately reinstate Claimant's MA benefits for the benefit period effective February 1, 2013 and properly transfer Claimant's MA case to SSI Termination Type of Assistance and thereafter determine whether Claimant qualifies for MA under other categories as set forth in BEM 150.

It is SO ORDERED.

/s/ _____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 17, 2013

Date Mailed: May 20, 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.

Either party may appeal this 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

