

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-53865
Issue No.: 2027
Case No.: [REDACTED]
Hearing Date: August 15, 2013
County: Wayne DHS (19)

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 August 15, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Supervisor, and [REDACTED] Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Medical Assistance (MA) eligibility, following a termination of Supplemental Security Income (SSI) benefits.

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 Supplemental Security Income (SSI) recipient.
2. Claimant was an ongoing MA benefit recipient receiving Medicaid based on being an SSI recipient.
3. On an unspecified date, Claimant was no longer eligible for SSI and began receiving Retirement, Survivors, Disability Insurance (RSDI).
4. On 6/4/13, DHS initiated termination of Claimant's MA benefit eligibility, effective 7/2013.
5. DHS did not perform an ex parte review prior to the MA benefit termination.
6. On 6/17/13, Claimant requested a hearing to dispute the MA benefit termination.

CONCLUSIONS OF LAW

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a termination of MA benefits. It was not disputed that Claimant was a Medicaid recipient based on her SSI status.

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.

It was not disputed that after Claimant's SSI eligibility ended, Claimant was an RSDI recipient. 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. BAM 210 (11/2012), p. 1. When possible, an ex parte review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. *Id.* The review includes consideration of all MA categories. *Id.*

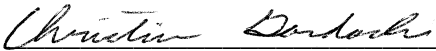
DHS initially contended that it was Claimant's responsibility to reapply for MA benefits following the MA termination. The DHS contention was wrong. It is DHS' responsibility to evaluate Claimant for other MA categories when eligibility for a category ends. DHS conceded that such an ex parte review was not performed. Accordingly, the MA benefit termination was 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 7/2013, subject to the finding that an ex parte review was not performed prior to benefit termination; and
- (2) initiate processing of an ex parte review to determine Claimant's ongoing MA eligibility.

The actions taken by DHS are REVERSED.


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

Date Signed: 8/20/2013

Date Mailed: 8/20/2013

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.

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

CG/hw

cc:

