

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

IN THE MATTER OF:



Reg. No.: 2014-14454
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: February 6, 2014
County: Wayne (82-17)

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 February 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case?

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 based on his receipt of Supplemental Security Income (SSI) benefits from the Social Security Administration (SSA).
2. On August 24, 2013, the Department sent Claimant a Notice of Case Action notifying him that, effective October 1, 2013, he would receive MA coverage under the SSI Terminated (SSIT) MA program.
3. On November 15, 2013, the Department sent Claimant a Notice of Case Action notifying him that, effective December 1, 2013, his MA coverage under the SSIT program would close because he was not disabled or blind, did not meet eligibility based on age, and was not the caretaker of a minor child in his home.

4. On November 21, 2013, Claimant 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 the Department's November 15, 2013, Notice of Case Action notifying him that his SSIT MA case would close effective December 1, 2013.

When SSI benefits stop, the Department evaluates the reason based on SSA's negative action code, then either closes the MA-SSI case if SSI stopped for a reason that prevents continued MA eligibility (such as death or lack of Michigan residency) or transfers the client's MA case to 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 (July 2013), p. 6; BAM 220 (July 2013), p. 17. During the *ex parte* review, the Department must consider the client's eligibility for coverage under all MA categories. BEM 150, p. 7. The Department must send the client the DHS-1171 Assistance Application and DHS-3503 Verification Checklist, marked with all verifications required for MA. BEM 150, p. 7. When the *ex parte* review shows that a recipient does have eligibility for MA under another category, the Department must change the coverage. BAM 220, p. 17. If the *ex parte* review reveals the recipient has already been determined disabled for purposes of qualifying for a disability-based MA eligibility category by the SSA or the Department and the determination is still valid, the Department must continue the recipient's MA eligibility under the disability-based MA category for which the recipient is otherwise eligible. BAM 220, p. 18. If SSI eligibility based on disability is terminated due to financial factors, the Department must continue medical eligibility for MA, though the client must meet all financial and other nonfinancial factors for SSI-related MA categories, the categories for disabled individuals. BEM 260 (July 2013), p. 1; BEM 105 (July 2013), p. 1.

In this case, the Department acknowledged that it did not conduct an *ex parte* review of Claimant's MA eligibility before terminating his SSIT MA coverage. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's MA case.

Furthermore, Claimant alleged that his SSI benefits had not terminated, that he continued to receive SSI benefits each month to the date of hearing. He testified that his SSI monthly benefits fluctuated because of his wife's income. The report from the Single Online Query (SOLQ), the Department's data exchange with SSA, is consistent with Claimant's testimony that his monthly SSI benefits fluctuate. While the SOLQ also shows, consistent with Claimant's testimony, that he received a payment from SSA for each month, the payments made in October 2013 and December 2013 are identified as underpayments. However, for subsequent months, the SOLQ identified Claimant as receiving a recurring, if fluctuating, SSI payment. The SOLQ identifies the current payment status effective date of November 1, 2013. There was no evidence in the SOLQ that SSA had terminated Claimant's SSI benefits because he was no longer disabled. To the contrary, his SOLQ date shows a disability onset date of May 28, 2008. Claimant also presented a February 4, 2013, letter from SSA showing a disability onset date of May 28, 2008, and continuing SSI payments. The evidence presented was sufficient to establish that changes in Claimant's SSI benefits were due to financial reasons. Further, as of January 1, 2014, the SOLQ shows recurring, ongoing SSI payments. As such, Claimant would have ongoing eligibility for disability-based MA coverage for SSI recipients as of January 1, 2014, ongoing.

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 effective December 1, 2013.

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 effective December 1, 2013; and
2. Provide Claimant with MA coverage he is eligible to receive from December 1, 2013, ongoing.



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

Date Signed: February 10, 2014

Date Mailed: February 10, 2014

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.

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:

