

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-20502
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: February 5, 2014
County: Macomb 36

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 February 5, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist (ES), [REDACTED].

ISSUE

Did the Department properly close the Claimant's SSI-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. The Claimant was an SSI benefit recipient and was receiving MA as a result of her SSI eligibility.
2. On January 1, 2014, the Claimant was terminated from SSI-MA eligibility because her SSI was cancelled and she began receiving RSDI income through the Social Security Administration.
3. On December 30, 2013, the Department's worker sent the Claimant's [REDACTED] a new assistance application for an ex parte review of the Claimant's MA eligibility. No completed application was ever returned.
4. On December 7, 2013, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her MA case would close effective January 1, 2014.

6. On December 23, 2013, the Claimant's [REDACTED] filed a request for a hearing to protest the closure of her SSI-MA case and informing the Department that the Claimant was developmentally disabled. The hearing request further indicates that [REDACTED] was recently appointed as the Claimant's Guardian and requests that all further correspondence is mailed to him, as opposed to the Claimant's [REDACTED]

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 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).

Once her SSI benefits were cancelled, the Claimant was no longer eligible to receive Medical Assistance on a SSI category because Bridges Eligibility Manual (BEM) 150 (2013) p. 1, specifically requires that to be automatically eligible for MA, the Claimant must be an SSI recipient. The Claimant now receives RSDI instead of SSI. Per BEM 105 (2010) p. 1, Michigan provides MA to eligible Claimants under two general classifications: group 1 and group 2 MA. The Claimant qualified under the group 2 MA classification which consists of Claimants whose eligibility results from the state designating certain types of individuals as medically needy. Per BEM 545 (2011), in order to qualify for group 2 MA, a medically needy Claimant must have income equal to or less than the basic protected monthly income level.

BEM 105 p. 5, provides that 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. In this case, there is no evidence that any *ex parte* review ever occurred before the Claimant's MA was terminated.

During the hearing, the Department's worker testified that she sent a new assistance application to the Claimant on December 30, 2013. The Claimant's case closed on January 1, 2014. The Administrative Law Judge did ask the Department's worker at the hearing why it is that no *ex parte* review occurred before the Claimant's case closed. The Department's worker testified that the Claimant's case had only recently been assigned to her. The Administrative Law Judge concludes that an *ex parte* review considering the category of MA disability should have occurred in this case at least 90 days before the case closed. This is particularly so in this case because the Social Security Administration had already determined that the Claimant is disabled and as the Department's worker had notice as of December 23, 2013 that the Claimant was specifically, developmentally disabled.

Therefore, this Administrative Law Judge concludes that the Department did not act in compliance with Departmental policy when it closed the Claimant's SSI-MA case without conducting a proper ex parte review of eligibility for other MA categories.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department did not act properly when closing the Claimant's SSI-MA case before conducting an ex parte review.

Accordingly, the Department's MA decision is **REVERSED**.

1. Re-determine the Claimant's eligibility for MA back to January 1, 2014, and
2. Issue the Claimant any supplement she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 2/6/14

Date Mailed: 2/7/14

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. (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 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 error, or other obvious errors in the hearing decision that effect the substantial rights of the Claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at

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

SEH/tb

cc:

