

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

IN THE MATTER OF:



Reg. No.: 2014-33411
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: April 24, 2014
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 April 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist Case Manager.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) 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 recipient of MA benefits.
2. On February 21, 2014, the Department sent Claimant a Notice of Case Action informing him that effective April 1, 2014, his MA case would be closed on the basis that he was not under age 21, pregnant or a caretaker of a minor child, and not over 65, blind or disabled. (Exhibit 1)
3. On March 6, 2014, Claimant submitted a hearing request 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, 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. BEM 150 (January 2014), p. 1. SSI recipients are eligible for MA benefits, provided certain criteria are met. BEM 150, p. 1. When SSI benefits stop, the Department is to evaluate the reason based on the SSA's negative action code and either: close MA-SSI if SSI stopped for a reason that prevents continued MA eligibility (for example, death, moved out of state) or transfer the case to the SSI Termination (SSIT) type of assistance. BEM 150, pp.6-7.

An ex parte review (see glossary) is required before MA 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; see BAM 115 and 220. BEM 150, p. 7. A redetermination date is set for the second month after transfer to SSIT to allow for an ex parte review. BEM 150, p. 7. The Department is to initiate a redetermination by sending the client a packet which includes an assistance application and a verification checklist (VCL). The Department then processes the application, initiates interview and intake and determines eligibility after sending out the appropriate disability forms and documenting all factors including disability and blindness. BEM 150, p.7. If the client is not eligible for any type of MA, the Department sends a negative action notice. BEM 150, p. 7.

In this case, Claimant was an ongoing recipient of MA under a SSI related MA program. Claimant was previously receiving SSI benefits from the SSA, however, in December 2013, his federal benefit changed and he began receiving Retirement, Survivors, Disability Insurance (RSDI). The Department testified that because the SSA terminated Claimant's SSI benefits, he was no longer eligible for MA. On February 21, 2014, the Department sent Claimant a Notice of Case Action informing him that the Department intended to close his MA case under the Terminated SSI MA program, effective April 1, 2014, on that basis that he was not under age 21, pregnant or a caretaker of a minor child, and not over 65, blind or disabled. (Exhibit 1).

A review of the SOLQ provided by the Department confirms that Claimant became eligible for RSDI benefits and that his SSI benefits were terminated. (Exhibit 2). It was not established at the hearing the basis for which Claimant was eligible for RSDI benefits, however. According to BEM 260, a person eligible for RSDI benefits based on his disability or blindness meets the disability or blindness criteria. Disability or blindness starts from the RSDI disability onset date established by the SSA. This includes a person whose entire RSDI benefit is being withheld for recoupment. No other evidence is required. BEM 260 (July 2013), pp. 1-2.

Although the Notice of Case Action establishes that Claimant was transferred to a Terminated SSI MA program, the Department testified that an ex parte review was not conducted prior to terminating Claimant's MA effective April 1, 2014, and that Claimant's eligibility for other MA programs was not determined. Prior to closing Claimant's MA case, the Department should have completed the ex parte review process to determine Claimant's eligibility for all MA programs, as required by BEM 150, and taking into consideration the reason for which Claimant was receiving RSDI benefits.

The Administrative Law Judge, based upon 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 on the basis that he was not under age 21, pregnant or a caretaker of a minor child, and not over 65, blind or disabled.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

The Department will issue SSP to SSI recipients in the following living arrangements: independent living or household of another (living in the household of another person and receiving partial or total support and maintenance in kind from that person). BEM 660 (July 2013), p.1. SSP benefits are issued quarterly and are made only for the months the recipient received a regular first month of the federal SSI benefits. BEM 660, p.1. Therefore, when eligibility for the federal SSI benefit ends, eligibility for SSP benefits also ends.


In this case, Claimant indicated that he had not received his quarterly SSP benefits. Because a review of the evidence establishes that Claimant's SSI benefits had been terminated, he was no longer eligible for SSP benefits. As such, the Department properly terminated Claimant's SSP benefits.

DECISION AND ORDER

Accordingly, the Department's MA 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 April 1, 2014;
2. Complete an ex parte review to determine Claimant's eligibility for the most beneficial MA program;
3. Issue retroactive MA coverage to Claimant for any MA benefits that he was entitled to receive but did not from April 1, 2014, ongoing ; and
4. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 6, 2014

Date Mailed: May 6, 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.

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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

ZB/tlf

cc:

