

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-3267
Issue No.: 2003
Case No.: [REDACTED]
Hearing Date: December 12, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 December 12, 2013, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED] Specialist, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's MA benefit eligibility without performing an ex-parte review.

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 Medicaid recipient.
2. Claimant's Medicaid eligibility was based on Claimant being a Supplemental Security Income (SSI) recipient.
3. On an unspecified date, the Social Security Administration (SSA) terminated Claimant's SSI eligibility but continued to issue payments to Claimant as a Retirement, Survivors, Disability Insurance (RSDI) recipient.

4. On an unspecified date, DHS terminated Claimant's Medicaid eligibility for an unspecified effective date.
5. Prior to MA termination, DHS did not perform an ex-parte review.
6. On [REDACTED]/13, Claimant requested a hearing to dispute the termination of MA benefits.

CONCLUSIONS OF LAW

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a termination of MA eligibility. DHS could not definitively state when Claimant's MA eligibility ended despite receiving time during the hearing to clarify when Claimant last received Medicaid. It was not disputed that Claimant's MA eligibility ended after SSA terminated Claimant's SSI eligibility.

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

- 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.

BEM 150 (7/2013), p. 6.

It was not disputed that after Claimant's SSI eligibility, Claimant was an RSDI recipient. This is persuasive evidence that Claimant is still a disabled individual despite the end of SSI eligibility.

It was also not disputed that DHS did not perform an ex-parte review prior to terminating Claimant's MA 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 contended that it was Claimant's responsibility to reapply for Medicaid. The DHS contention is not accurate. It was DHS' obligation to perform an ex-parte review of Claimant's MA eligibility prior to terminating Claimant's MA eligibility. Accordingly, the DHS termination of Claimant's MA eligibility 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 beginning the first month after Claimant most recently received Medicaid based on receipt of SSI; 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: 1/2/2014

Date Mailed: 1/2/2014

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

CG/hw

cc:

