

**STATE OF MICHIGAN**  
**MICHIGAN ADMINISTRATIVE HEARING SYSTEM**  
**FOR THE DEPARTMENT OF COMMUNITY HEALTH**  
P.O. Box 30763, Lansing, MI 48909  
(877) 833-0870; Fax: (517) 373-4147

**IN THE MATTER OF:**

**Docket No.** 2014-34365 EDW

██████████  
Appellant  
\_\_\_\_\_ /

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon a request for a hearing filed on behalf of Appellant.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on her own behalf. ██████████ Clinical Manager, appeared and testified on behalf of the Department of Community Health's Waiver Agency, the ██████████ ("Waiver Agency" or "██████████").

**ISSUE**

Did the Waiver Agency properly terminate Appellant's services through the MI Choice Waiver Program?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. ██████████ is a contract agent of the Department of Community Health (DCH) and is responsible for the provision of MI Choice waiver services.
2. Appellant has been enrolled and receiving services through ██████████. (Testimony of Appellant; Testimony of ██████████).
3. On ██████████ performed its monthly check for financial eligibility for the program, as determined by the Department of Human Services (DHS), and learned that Appellant no longer had active Medicaid. (Respondent's Exhibit B, page 4; Respondent's Exhibit C, page 1).

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4. On [REDACTED] sent Appellant written notice that she had been disenrolled from the program due to DHS' determination regarding financial eligibility and her services would be terminated. (Petitioner's Exhibit 1, pages 2-3; Respondent's Exhibit A, pages 1-2).
5. [REDACTED] and Appellant also discussed other temporary services she may have access to. (Testimony of Appellant; Testimony of [REDACTED]).
6. [REDACTED] staff has further assisted Appellant in attempting to have her Medicaid reinstated. (Testimony of Appellant; Testimony of [REDACTED]).
7. Those attempts have been unsuccessful as of the date of the hearing. (Testimony of Appellant; Testimony of [REDACTED]).
8. On [REDACTED], [REDACTED], the Michigan Administrative Hearings System (MAHS) received the request for hearing filed in this matter. (Petitioner's Exhibit 1, pages 1-3; Respondent's Exhibit A, pages 1-2).

**CONCLUSIONS OF LAW**

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

The Appellant is claiming services through the Department's Home and Community Based Services for Elderly and Disabled. The waiver is called MI Choice in Michigan. The program is funded through the federal Centers for Medicare and Medicaid Services to the Michigan Department of Community Health (Department). Regional agencies, in this case [REDACTED], function as the Department's administrative agency.

Waivers are intended to provide the flexibility needed to enable States to try new or different approaches to the efficient and cost-effective delivery of health care services, or to adapt their programs to the special needs of particular areas or groups of recipients. Waivers allow exceptions to State plan requirements and permit a State to implement innovative programs or activities on a time-limited basis, and subject to specific safeguards for the protection of recipients and the program. Detailed rules for waivers are set forth in subpart B of part 431, subpart A of part 440, and subpart G of part 441 of this chapter.

*42 CFR 430.25(b)*

A waiver under section 1915(c) of the [Social Security] Act allows a State to include as “medical assistance” under its plan, home and community based services furnished to recipients who would otherwise need inpatient care that is furnished in a hospital, SNF [Skilled Nursing Facility], ICF [Intermediate Care Facility], or ICF/MR [Intermediate Care Facility/Mentally Retarded], and is reimbursable under the State Plan.

*42 CFR 430.25(c)(2)*

Regarding eligibility for the waiver program, the applicable version of the Michigan Medicaid Provider Manual (MPM) states in part:

**SECTION 2 - ELIGIBILITY**

The MI Choice program is available to persons 18 years of age or older who meet each of three eligibility criteria:

- An applicant must establish their financial eligibility for Medicaid services as described in the Financial Eligibility subsection of this chapter.
- The applicant must meet functional eligibility requirements through the online version of the Michigan Medicaid Nursing Facility Level of Care Determination (LOCD).
- It must be established that the applicant needs at least one waiver service and that the service needs of the applicant cannot be fully met by existing State Plan or other services.

All criteria must be met in order to establish eligibility for the MI Choice program. MI Choice participants must continue to meet these eligibility requirements on an ongoing basis to remain enrolled in the program.

## **2.1 FINANCIAL ELIGIBILITY**

Medicaid reimbursement for MI Choice services requires a determination of Medicaid financial eligibility for the applicant by the Michigan Department of Human Services (MDHS). As a provision of the waiver, MI Choice applicants benefit from an enhanced financial eligibility standard compared to basic Medicaid eligibility. Specifically, MI Choice is furnished to participants in the special home and community-based group under 42 CFR §435.217 with a special income level equal to 300% of the SSI Federal Benefit Rate. Medicaid eligibility rules stipulate that participants are not allowed to spend down to achieve an enhanced financial eligibility standard.

*MPM, April 1, 2014 version*  
*MI Choice Waiver Chapter, page 1*


Given that clear policy, Appellant must establish her financial eligibility for Medicaid services on an ongoing basis and the Waiver Agency must rely on the determination of financial eligibility made by DHS.

In this case, it is undisputed that Appellant has lost her Medicaid coverage and is no longer financially eligible for the program. Accordingly, the Waiver Agency properly terminated Appellant's enrollment.

Appellant briefly testified regarding her medical conditions and need for assistance, but those issues are also not in dispute as Appellant's services were terminated solely on the basis that she is no longer financially eligible for the program. This Administrative Law Judge sympathizes with Appellant, but the above policy is clear and the Waiver Agency cannot provide waiver services where Appellant is not financially eligible.

Appellant's primary issue in this case is not properly before this court. Appellant stated that she wished to dispute the determination of financial ineligibility. It was explained that the Department of Human Services (DHS) office has jurisdiction over eligibility issues, not the Department of Community Health (DCH) or the Waiver Agency. Appellant has been advised to file a hearing request in the appropriate forum so that a separate hearing can be scheduled to address the eligibility determination with DHS.

With respect to the decision at issue in this case, the Waiver Agency's actions must be affirmed given the available information and applicable policy.

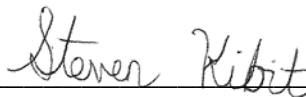
  
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**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Waiver Agency properly terminated Appellant's services through the MI Choice Waiver Program.

**IT IS THEREFORE ORDERED** that:

The Waiver Agency's decision is **AFFIRMED**.



\_\_\_\_\_  
Steven J. Kibit  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

Date Signed: 

Date Mailed: 

SK/db

cc: 

**\*\*\* NOTICE \*\*\***

The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant 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 of the rehearing decision.