

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-009325
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: September 17, 2015
County: OAKLAND-DISTRICT 2

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, an in person hearing was held on September 17, 2015, from Madison Heights, Michigan. Participants on behalf of Claimant included [REDACTED], Power of Attorney and Father of Claimant. [REDACTED] Claimant's attorney appeared on his behalf. The Claimant did not appear. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Assistance Payments Manager and [REDACTED] Assistance Payments Worker. [REDACTED], Assistance Attorney General, also appeared on behalf of the Department as its attorney.

ISSUE

Did the Department properly close the Claimant's Medical Assistance (MA) based upon Claimant's SSITerminating and the Claimant's failure to return a redetermination?

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 ongoing recipient of medical assistance based upon being an SSI recipient.
2. The Department issued a Health Care Coverage Determination Notice on [REDACTED] closing the Claimant's Medicaid SSIT effective [REDACTED] based upon the Claimant's failure to complete a redetermination review, which closed the Claimant's Medicaid SSIT case number [REDACTED]. Exhibit 1, pp. 3-5
3. At the hearing, the Department acknowledged that it never sent the Claimant or his representative a redetermination when the Claimant was placed in an SSIT MA

category on [REDACTED], as required by Department policy. The Department also never sent a redetermination to the Claimant or his attorney when it issued the [REDACTED] Notice closing the MA SSIT case for failure to complete a redetermination.

4. After receiving the Claimant's timely hearing request on [REDACTED], the Department reviewed the case file and discovered its multiple errors. The first error was never verifying, after SSI closure, the status of Claimant's eligibility status; and on [REDACTED], sending a Health Care Coverage Determination Notice closing the Claimant's MA case due to a redetermination it never sent. None of the redeterminations were presented as part of the Department's proof at the hearing.
5. The Claimant's SSI closed in September 2014. The Department placed the Claimant in continuing medical assistance for the SSI Terminated, (SSIT) program as of [REDACTED]. This action was taken under case number [REDACTED]. Exhibit 4 p. 1 and p. 28
6. The Department conceded that it sent no redetermination to the Claimant or his attorney regarding the SSI closure after opening of the SSIT case.
7. The Claimant continued to have SSIT coverage until the Department converted the SSIT to HMP. Exhibit 1, p. 1
8. At the hearing, the Department agreed to open a pending Medicaid application subject to the processing of the Claimant's trust agreements and review of the trusts by the Department's Office of Legal Services Trust and Annuities Unit. The Department also agreed to open an application and apply QMB retroactive to the date of RSDI eligibility, if the Claimant is income eligible to receive QMB in accordance with Department policy.
9. The Claimant's AHR and attorney requested a timely hearing on [REDACTED] protesting the Department's actions.

CONCLUSIONS OF LAW

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

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department

of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

In this case, the Department closed the Claimant's SSI MA case on [REDACTED] and placed the Claimant on SSIT. The SSI closure on [REDACTED] converted the Claimant's MA to SSITerminated (SSIT), under case no [REDACTED]. Department policy requires that when MA SSI is terminated the Department must:

Transfer to SSIT. 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; see glossary. BEM 150 (October 1, 2015) p.6.

The Department conceded that it never sent or requested the completion of a redetermination to allow for an ex parte review and thus did not follow Department policy in this regard.

In addition, Claimant's receiving medical assistance is entitled to the most beneficial category for them when determining the best MA program. BEM 105 provides:

CHOICE OF CATEGORY

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income.

Note: Persons may receive both Medicare Savings Program benefits (BEM 165) and coverage under another MA category; see **Medicare Savings Program** in this item.

However, clients are not expected to know such things as:
Ineligibility for a FIP grant does not mean MA coverage must end.

The LIF category is usually the most beneficial category for families because families who become ineligible for LIF may qualify for TMA or Special N/Support.

The most beneficial category may change when a client's circumstances change.

Therefore, you must consider all the MA category options in order for the client's right of choice to be meaningful. BEM 105, (January 1, 2014) p.2

The Department never completed this redetermination task as required when it originally placed the Claimant in SSIT when Claimant's SSI ended. The Department closed the Claimant's SSIT on [REDACTED] for failure to complete a redetermination, which was never sent to either the Claimant, his attorney, or AHR. The Department closed the Claimant's SSIT effective [REDACTED].

After the Department received the Claimant's attorney's request for hearing dated [REDACTED], the Department reviewed the case file and closure. After discovering that it closed the case in error because SSI cases may not be reinstated, the Department placed the Claimant on HMP so that medical assistance was available to the Claimant. Thereafter, the Department, pursuant to its obligation to issue a redetermination for SSIT under BEM 150, issued a redetermination/application which it sent to the Claimant on [REDACTED] with a due date of [REDACTED]. This verification checklist and application was not sent to the Claimant's attorney and AHR. Thereafter, on [REDACTED], [REDACTED] the Department issued a Notice of Case Action closing the Claimant's HMP for failure to return income and asset information.

The Department took these steps once it discovered that it had improperly closed the Claimant's case for failure to complete the redetermination, which was never sent to the Claimant or his attorney as required by SSIT cases and Department policy.

In addition no ex parte review was conducted prior to the closure of Claimant's SSIT case as required by Department policy.

Medicaid (MA) Only

An ex parte review (see glossary) 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 calendar 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. BAM 210 (October 1, 2015) p. 1. See also BEM 150, supra.

At the hearing, the Department conceded that based upon these facts, it would open a pending Medicaid application and process the application including the two trust agreements for review by the Department's Office of Legal Services Trust and Annuities Unit. The Department also agreed to open an application for QMB and apply QMB retroactive to the date of RSDI eligibility, if the Claimant is otherwise income eligible to receive QMB in accordance with Department policy.

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 improperly closed the Claimant's MA case on [REDACTED] and did not act in accordance with Department policy when it failed to send a redetermination to the Claimant's attorney prior to closing the Claimant's SSIT medical assistance. In addition,

the Department failed to satisfy its burden of showing that it acted in accordance with Department policy with regards to failing to conduct an ex parte review after Claimant's SSI ended.

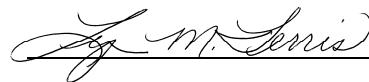
DECISION AND ORDER

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. The Department shall reinstate the Claimant's Medical Assistance (case number [REDACTED]) which it closed by the Health Care Coverage Determination Notice dated [REDACTED]; and conduct a redetermination and ex parte review and then process the application/redetermination and determine the Claimant's eligibility in accordance with Department policy.
2. The Department shall also process the Claimant's QMB and determine the Claimant's eligibility retroactive to the Claimant's eligibility for RSDI in accordance with Department policy.
3. The Department shall provide written notice to the Claimant and Claimant's AHR of its eligibility determination regarding Medicaid or other MA eligibility.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/14/2015**

Date Mailed: **10/14/2015**

LMF / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

cc:

