

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

IN THE MATTER OF:

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MAHS Reg. No.: 15-023305
Issue No.: 2001
Agency Case No.: ██████████
Hearing Date: February 16, 2016
County: Wayne-District 17

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Petitioner'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, a telephone hearing was held on February 16, 2016, from Detroit, Michigan. Petitioner is a minor child. Petitioner was represented her father/Authorized Hearing Representative (AHR), ██████████. The Department was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's 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. Petitioner was previously a recipient of SSI benefits and was receiving MA benefits under the MA for SSI Recipients category.
2. Petitioner's receipt of SSI benefits was terminated. (Exhibit C)
3. On November 17, 2015, the Department sent Petitioner a Notice of State SSI Payment Change informing her that her quarterly State SSI Payment has been terminated, as she has not received a SSI payment for three months. (Exhibit A)
4. On November 19, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective December 1, 2015, she was ineligible for MA on the basis that she failed to return a redetermination. (Exhibit B)

5. On November 30, 2015, Petitioner's father requested a hearing on her behalf disputing the MA case closure.

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.

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 (October 2015), 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, p.6.

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, pp. 6-7. A redetermination date is set for the second month after transfer to SSIT to allow for an ex parte review. BEM 150, pp. 6-7. 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. When the ex parte review shows that an MA recipient is eligible for MA under another category, the Department must change the coverage. BAM 220 (October 2015), p. 17.

In this case, the Department testified that because Petitioner was no longer a SSI recipient, she was no longer eligible for MA under the MA for SSI Recipients category. Although the Health Care Coverage Determination Notice indicates that the case was closed based on a failure to return a redetermination, the Department did not establish that it sent Petitioner a redetermination or application to be completed and returned. Additionally, the Department did not transfer Petitioner's MA case to the SSIT type of assistance as required by Department policy nor did the Department establish that it conducted an ex parte to determine Petitioner's eligibility for all other MA categories.

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 did not act in accordance with Department policy when it failed to transfer Petitioner's MA case to the SSIT category and subsequently closed Petitioner's MA for SSI Recipients case prior to completing a thorough ex parte review to determine her eligibility for MA under all categories.

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. Reinstate Petitioner's MA case effective December 1, 2015;
2. Complete an ex parte review to determine Petitioner's MA eligibility for all MA programs for the period of December 1, 2015, ongoing;
3. Provide Petitioner with MA coverage under the most beneficial category from December 1, 2015, ongoing, in accordance with Department policy; and
4. Notify Petitioner's AHR of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/25/2016**

Date Mailed: **2/25/2016**

ZB / tlf

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:

[REDACTED]
[REDACTED]
[REDACTED]
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