



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR



Date Mailed: July 12, 2016  
MAHS Docket No.: 16-005678  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

### **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 June 13, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED] testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

### **ISSUE**

The issue is whether MDHHS properly performed an ex-parte review concerning Petitioner's Medical Assistance (MA) eligibility.

### **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 an ongoing Supplemental Security Income (SSI) recipient.
2. Petitioner was an ongoing Medicaid recipient on the basis of being an SSI recipient.
3. On an unspecified date, the Social Security Administration terminated Petitioner's SSI eligibility, effective March 2016.
4. MDHHS continued issuing Petitioner Medicaid through the SSI-transitional (SSIT) category for March 2016 and April 2016.

5. MDHHS did not perform an ex-parte review.
6. On [REDACTED], MDHHS terminated Petitioner's MA eligibility, effective May 2016, due to Petitioner's failure to return redetermination documents.
7. On [REDACTED], Petitioner requested a hearing to dispute the termination of MA.

### **CONCLUSIONS OF LAW**

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of MA benefits. It was not disputed that MDHHS terminated Petitioner's MA eligibility, effective May 2016.

It was not disputed Petitioner received MA for being an SSI recipient. It was not disputed the Social Security Administration terminated Petitioner's SSI eligibility beginning March 2016, and began to issue her RSDI benefits instead. The loss of SSI rendered Petitioner ineligible for Medicaid through the SSI category.

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 (October 2015), p. 6.

MDHHS issued Medicaid to Petitioner through the SSIT category for the months of March 2016 and April 2016. As noted above, MDHHS should have used that 2 month period to perform an ex-parte review.

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 (April 2015), 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.*

MDHHS testimony indicated Petitioner's MA eligibility ended because Petitioner failed to return ex-parte review documentation. It was initially thought that Petitioner's failure to update her mailing address with MDHHS was the cause of Petitioner's failure. As it happened, Petitioner's failure to update her address was a moot issue.

When an SSIT EDG is set in Bridges, the specialist will receive the following Task/Reminder (T/R): Send DCH-1426 to client as Medicaid Transitional SSI case newly Certified. The T/R has a 15 day due date. On or before the Task/Reminder due date the specialist should mail a redetermination packet to the client and authorized representative. The redetermination packet should include the DCH-1426 Application for Health Coverage & Help Paying Cost and the Word version of the DHS-3503 Verification Checklist. The specialist should mark the verifications required for Medicaid on the DHS-3503.

MDHHS testimony conceded Petitioner was not mailed a redetermination packet. If MDHHS did not mail Petitioner a redetermination packet, MDHHS may not terminate Petitioner's MA eligibility for a failure by Petitioner to return the redetermination packet. Accordingly, the termination of Petitioner's Medicaid eligibility was improper.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's MA eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's Medicaid eligibility, effective May 2016, subject to the finding that MDHHS failed to mail Petitioner redetermination documents required for an ex-parte review; and
- (2) Issue a supplement for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/hw



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**Christian Gardocki**

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

**NOTICE OF APPEAL**: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

**DHHS**

[REDACTED]

[REDACTED]

**Petitioner**

[REDACTED]