



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: November 4, 2016
MAHS Docket No.: 16-013918
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 November 2, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) benefits effective November 1, 2016?

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 recipient of MA benefits.
2. Petitioner is disabled.
3. Petitioner's Supplemental Security Income (SSI) benefits were terminated on or about November 1, 2016, due to financial factors.
4. Petitioner began receiving Retirement, Survivors, and Disability Insurance (RSDI) benefits on or about October of 2016.

5. On September 20, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that his MA benefits would close effective November 1, 2016 because he is not under 21, pregnant, a caretaker of a minor child in his home, he is not over 65 (aged), blind, or disabled. Exhibit A, pp. 4-6.
6. On September 26, 2016, Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-3.

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.

Preliminary matter

As a preliminary matter, it was discovered that Petitioner reapplied for MA benefits on October 13, 2016, which was after the hearing request. Furthermore, the Department testified that the application was processed incorrectly. The undersigned Administrative Law Judge (ALJ) lacks any jurisdiction to address Petitioner's application because it occurred subsequent to the hearing request. Petitioner can attempt to request another hearing if he disputes his MA application. See BAM 600 (October 2015), p. 6. (The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days).

MA benefits

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105 (July 2016), p. 1. Medicaid is also known as Medical Assistance (MA). BEM 105, p. 1. The Medicaid program comprise several sub-programs or categories. BEM 105, p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105, p. 1.

Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. BEM 105, p. 1. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105, p. 1. The income limit, which varies by category, is for nonmedical needs such as food and shelter. BEM 105, p. 1. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. BEM 105, p. 1.

For Group 2, eligibility is possible even when net income exceeds the income limit. BEM 105, p. 1. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. BEM 105, p. 1. Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, p. 1.

In the present case, Petitioner's SSI income changed to RSDI income due to financial factors. Obviously, Petitioner's SSI-MA benefits would be terminated because he is no longer an SSI recipient. However, Petitioner is still disabled and there are other MA categories that he could possibly be eligible for, such as Group 2 Spend-Down (G2S) benefits, subject to a deductible. See BEM 166 (July 2013), p. 1 (MA – G2S is available to a person who is aged (65 or older), blind or disabled). However, for some reason, the Department closed his MA benefits effective November 1, 2016.

On September 20, 2016, the Department sent Petitioner a determination notice notifying him that his MA benefits would close effective November 1, 2016 because he is not under 21, pregnant, a caretaker of a minor child in his home, he is not over 65 (aged), blind, or disabled. Exhibit A, pp. 4-6. The Department testified, though, that the closure is actually based on his income exceeding the limits. Exhibit A, p. 1. (Hearing Summary). However, this closure reason is not indicated anywhere in the determination notice. See Exhibit A, pp. 4-6. A further review of the determination notice found that it improperly concluded that he is not disabled, when in fact, he is. Exhibit A, p. 4.

Additionally, policy states for MA-only terminations, 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. BEM 105, p. 5. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. BEM 105, p. 5. The review includes consideration of all MA categories; see BAM 115 and 220. BEM 105, p. 5.

Consider eligibility under all other MA-only categories before terminating benefits under a specific category. BEM 105, p. 5. In addition, when Group 1 eligibility does not exist but all eligibility factors except income are met for a Group 2 category, activate deductible status; see BEM 545. BEM 105, p. 5.

Exception: Close the case when benefits are terminating:

- For Medicare Savings Programs-only (BEM 165)
- For QDWLs (BEM 169)

BEM 105, p. 5.

In this case, the Department acknowledged that it failed to conduct an ex parte review of Petitioner's case to see if he was eligible for other MA categories. Petitioner does not meet any of the exceptions listed above where an ex parte review does not need to be conducted.

Based on the foregoing information and evidence, the Department improperly closed Petitioner's MA benefits effective November 1, 2016, in accordance with Department policy.

First, the Department testified that it did not conduct an ex parte review to determine if Petitioner is eligible for other MA categories. Policy requires that an ex parte review be done prior to case closure. As such, the Department will conduct an ex parte review to determine if Petitioner is eligible for other MA categories effective November 1, 2016. See BEM 105, p. 5.

Second, the determination notice improperly concluded that Petitioner was not eligible for MA benefits because he was not disabled. Exhibit A, pp. 4-6. Instead, Petitioner is disabled and the fact that he is disabled means that he could possibly be eligible for MA benefits (i.e., G2S). Thus, this is another reason why the Department must redetermine his eligibility for other MA categories because it has to take into consideration that he is disabled. See BEM 105, pp. 1-5; and BEM 260 (July 2015), p. 1 (If SSI eligibility based on disability or blindness was terminated due to financial factors, continue medical eligibility for MA. A person eligible for RSDI benefits based on his disability or blindness meets the disability or blindness criteria).

DECISION AND ORDER

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 improperly closed Petitioner's MA benefits effective November 1, 2016.

Accordingly, the Department's MA 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. Redetermine Petitioner's MA eligibility for November 1, 2016;
2. Issue supplements to Petitioner for any MA benefits he was eligible to receive but did not from November 1, 2016, ongoing; and
3. Notify Petitioner of its decision.

EF/tm



Eric J. Feldman

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]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
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[REDACTED]

CC: [REDACTED]
[REDACTED]