



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: May 20, 2016
MAHS Docket No.: 16-002781
Agency No.: [REDACTED]
[REDACTED]

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 April 21, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. 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) 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 Supplemental Security Income (SSI) and was receiving MA benefits under the MA for SSI Recipients category.
2. On an unverified date, Petitioner's receipt of SSI benefits was terminated.
3. On February 17, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) informing him that effective March 1, 2016, he was ineligible for MA on the basis that he failed to return a redetermination. (Exhibit A)
4. The Department acknowledged that it did not send Petitioner a redetermination for his MA case.

5. On February 23, 2016, Petitioner submitted a new application for MA benefits. (Exhibit B)
6. On February 24, 2016, Petitioner requested a hearing disputing the closure of his MA case, specifically referencing the February 17, 2016, Notice and indicating that he did not receive a redetermination to complete and return.

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. For ex parte reviews of individuals receiving MA for SSI Recipients, 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 the 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, he was no longer eligible for MA under the MA for SSI Recipients category. The Department testified that although the Health Care Coverage Determination Notice indicates that the case would be closed effective March 1, 2016, based on a failure to return a redetermination, the Notice was sent in error, as the Department did not send Petitioner a redetermination, assistance application or verification checklist to be completed and returned. The Department acknowledged that it did not complete an ex parte review prior to initiating the closure of Petitioner's MA for SSI Recipients case and sending him the Notice of case closure.

The Department stated that on February 23, 2016, Petitioner submitted a new application on his own for MA benefits. (Exhibit B). On February 24, 2016, Petitioner requested a hearing disputing the case closure and the information contained in the February 17, 2016, Health Care Coverage Determination Notice. The Department stated that it processed the application submitted by Petitioner and used the application to complete the ex parte review. The Department further stated that Petitioner was provided with MA coverage under the SSIT program; however, it was unclear by looking at the eligibility summary and based on the Department's testimony if this action was taken prior or subsequent to the Notice of case closure being issued. (Exhibit E). The Department testified that after processing the application, it determined that Petitioner was eligible for MA under a Group 2 deductible MA program effective March 1, 2016. On March 23, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective March 1, 2016, he was approved for MA with a monthly deductible of \$644. (Exhibit D). Although the Department testified that Petitioner's MA coverage was transferred to a Group 2 deductible program effective March 1, 2016, the Department failed to follow its policies with respect to the completion of the ex parte review.

The actions taken by the Department and the attempts made to correct the improper case closure are considered subsequent actions taken after the date in which Petitioner requested a hearing. Petitioner specifically disputed the closure of his MA case and the February 17, 2016, Notice advising him of the closure on the basis that he failed to return a redetermination, which based on the Department's testimony at the hearing, was improper.

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 closed Petitioner's MA case under the MA for SSI Recipients category on the basis that he failed to return a redetermination. Petitioner was informed at the hearing that should he dispute the subsequent action

taken and the imposition of a MA deductible effective March 1, 2016, he was entitled to submit a new hearing request to have the issue addressed.

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 under the SSIT category effective March 1, 2016 and continue Petitioner's MA coverage under the SSIT category until completion of the ex parte review referenced below;
2. Complete an ex parte review to determine Petitioner's MA eligibility for all MA programs;
3. Provide Petitioner with MA coverage under the most beneficial category from March 1, 2016, ongoing, in accordance with Department policy; and
4. Provide Petitioner with timely notice of its decision and any change in MA eligibility.

ZB/tlf



Zainab Baydoun

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

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