



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 18, 2016
MAHS Docket No.: 16-003496
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED] [REDACTED] from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Petitioner also appeared. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close the Petitioner's Medical Assistance (MA) due to his Supplemental Security Income (SSI) closing?

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 Petitioner was an ongoing recipient of MA.
2. Based on a State Online Query (SOLQ), the Petitioner's SSI is no longer active. The SOLQ noted that the Petitioner had filed an appeal regarding the SSI termination on [REDACTED]. Exhibit 1, p.1. The Payment code was NO 7, and the appeal code was A.
3. The Department issued a Health Care Coverage Determination Notice on [REDACTED], [REDACTED] closing the Petitioner's MA because he is not under 21, pregnant, or caretaker of a minor child in his home. He is not over 65, blind or disabled. Exhibit 2.

4. The Social Security Administration issued a letter to the Petitioner dated [REDACTED], finding that the Petitioner was not eligible for SSI payments based on disability or blindness as it ended on [REDACTED]. Petitioner Exhibit 1.
5. The Petitioner 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 Petitioner's MA case due to the Petitioner's SSI termination by the Social Security Administration (SSA). The Department's proofs consisted of an SOLQ, which indicated that the Petitioner had appealed the SSA determination on [REDACTED]; and one of the relevant codes referenced in BEM 150 and BEM 260, NO 7 was referenced. The relevant Department policy regarding SSI terminations is found in BEM 150 which provides:

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.

In Michigan, DHS supplements federal SSI payments based on the client's living arrangement. Thus, in this item **SSI recipient** means a Michigan resident who receives the basic federal payment, the state supplement, or both.

To be **automatically** eligible for Medicaid (MA) an SSI recipient must both:

- Be a Michigan resident.
- Cooperate with third-party resource liability requirements.

DHS administers MA for SSI recipients, including a continued MA eligibility determination when SSI benefits end. BEM 150 (October 1, 2015), p. 1.

SSI TERMINATION

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.
- **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 p.6-7

Based on current circumstances, determine whether the client qualifies for MA under:

- MA While Appealing Disability Termination in this item, or
- Any other MA category; see BEM 105.
- 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 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, p. 7.

In this case, the Petitioner filed an appeal of the SSI termination, which was pending as of [REDACTED]. The Department closed the case due to its finding that the Petitioner was no longer disabled. Exhibit 2. The Petitioner's SOLQ noted a payment status code of NO 7. Based upon Department policy found in BEM 150 and BEM 260, the Petitioner's MA case should not have been closed. Department policy in BEM 150 provides that MA continues under certain circumstances which are as follows:

MA While Appealing Disability Termination

MA eligibility continues for an individual who:

- Has been terminated from SSI because he is no longer considered disabled or blind, and

Note: See BEM 260 about SSI denial codes.

- Has filed an appeal of the termination with SSA within SSA's 60-day time limit, and

Note: See BEM 260 for information about the SSA appeal process and appeal codes.

- Is a Michigan resident.

Other eligibility factors such as income, assets and third party resource liability are **not** an issue.

MA eligibility continues until the person:

- Exhausts his SSA appeal rights, or
- Fails to file an appeal at any step within SSA's 60-day time limit, or
- Is no longer a Michigan resident. BAM 150, pp. 7-8.

The SSI Denial Code referenced in BEM 260 for NO 7 is a Disability Denial Code, and the Appeal Code is A for reconsideration. Thus, based upon BEM 150, the Department did not provide evidence to support the MA closure under these circumstances. Given that the Policy in BEM 260 notes NO 7 as a relevant disability denial code and that it is an appeal of a disability denial, the Petitioner's MA case should not have been closed based upon the evidence presented by the Department at the hearing. BEM 260 (July 1, 2015), p. 12.

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 the Petitioner's MA case because he was no longer eligible for SSI as he was no longer disabled. In addition, the Department did not meet its burden to demonstrate that the SOLQ information and relevant appeal codes did require closure in light of BEM 150 and BEM 260. The Department also failed to demonstrate that the Petitioner's case was sent to SSIT under the circumstances of this case as required by Department policy.

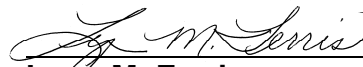
DECISION AND ORDER

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 Petitioner's MA case retroactive to the date of closure.
2. The Department shall provide written notice to the Petitioner of his MA reinstatement.

LMF/jaf



Lynn M. Ferris
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]

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]

CC:

[REDACTED]