

4. On April 9, 2018, MDHHS terminated Petitioner's MA eligibility beginning May 2018 for the reason that Petitioner was neither under 21, disabled, pregnant, a caretaker to a minor child, nor over 65 years in age. (Exhibit A, p. 3)
5. On April 13, 2018, Petitioner requested a hearing to dispute the termination of MA benefits.

CONCLUSIONS OF LAW

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. 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 Medicaid. MDHHS presented a Health Care Coverage Determination Notice dated April 9, 2018, which stated that Petitioner was not eligible for Medicaid because she is neither under 21, pregnant, a caretaker to a minor child, over 65, blind, nor disabled. (Exhibit A, p. 3)

Medicaid is also known as Medical Assistance (MA). The Medicaid program comprise several sub-programs or categories. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. 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 (April 2017), p. 1.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*, p. 2.

MDHHS' basis for terminating Petitioner's MA eligibility cannot be accepted because Medicaid is available to individuals between the ages of 21-65 who are neither pregnant, nor a caretaker to a minor child, nor disabled (see BEM 137). Thus, it is found that MDHHS failed to provide a legitimate basis for terminating Petitioner's MA eligibility; this finding is further supported by procedural failures by MDHHS concerning the transition of Petitioner's MA eligibility under SSI.

A redetermination/*ex parte* review is required before Medicaid closures unless the basis for SSI termination would result in closure due to ineligibility for all Medicaid. When possible, a redetermination/*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. A redetermination date should be set for the second month after transfer to allow for an *ex parte* review. BEM 150 (April 2017), pp. 6-7.

In Medicaid closures related to SSI termination, the specialist will receive a reminder giving 15 days for the specialist to mail a redetermination/*ex parte* packet to the client. The redetermination/*ex parte* 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. The specialist is to complete the redetermination/*ex parte* review during the second month of SSIT eligibility. *Id.*, p. 7.

As an SSI recipient, Petitioner received Medicaid automatically. When Petitioner's SSI eligibility ended, MDHHS should have conducted an *ex parte* review to determine if Petitioner still qualified for Medicaid. MDHHS testimony assumed that an *ex parte* review was performed. During the hearing, MDHHS checked their database for evidence of an *ex parte* review (e.g. documentation that Petitioner's specialist mailed a redetermination packet to Petitioner); MDHHS was unable to provide such evidence. Petitioner credibly testified that she did not receive a redetermination packet before MDHHS terminated her MA eligibility.

Given the evidence, it is found that MDHHS failed to perform an *ex parte* review of Petitioner's eligibility for Medicaid following the end of Petitioner's eligibility for SSI. To remedy the error, MDHHS will be ordered to reinstate Petitioner's MA eligibility and to initiate the processing of an *ex parte* review.

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 MA eligibility, effective May 2018; and
- (2) Initiate processing of an *ex parte* review to determine if Petitioner is entitled to continuing MA eligibility.

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

CG/



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) 763-0155; 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

Randa Chenault
MDHHS-Oakland-3-Hearings

Petitioner

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