



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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[REDACTED]
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[REDACTED], MI [REDACTED]

Date Mailed: March 28, 2024
MOAHR Docket No.: 24-001266
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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held via telephone conference on March 21, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Markita Mobley, supervisor.

ISSUE

The issue is whether MDHHS properly terminated 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. On an unspecified date, Petitioner stopped receiving Supplemental Security Income and began receiving Retirement, Survivors, Disability Insurance (RSDI).
2. As of October 2023, Petitioner was disabled and received Medicaid based on receipt of SSI benefits.
3. On an unspecified date, MDHHS updated Petitioner's Medicaid category to terminating SSI (SSI-T) with an end date beginning January 2024.

4. On [REDACTED] [REDACTED] 2023, Petitioner submitted to MDHHS an application requesting MA benefits.
5. On November 29, 2023, MDHHS sent Petitioner notice of MA ineligibility beginning January 2024 due to Petitioner not being disabled.
6. As of January 2024, MDHHS had not performed an ex parte review of Petitioner's MA eligibility.
7. On February 1, 2024, Petitioner requested a hearing to dispute the termination of Medicaid.

CONCLUSIONS OF LAW

The 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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA 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 closure of MA benefits. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated November 29, 2023, stated that Petitioner's MA eligibility would end January 2024 because Petitioner was not disabled. Exhibit A, pp. 20-22.

Upon certification of eligibility results, MDHHS's database automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (November 2023) p. 2. Notices of Case Action must include the reason for the negative action and the specific manual item citing the legal basis for an action. *Id.*, pp. 2-3.

It was not disputed that Petitioner was disabled. As a disabled individual, Petitioner is potentially eligible for numerous MA categories (see BEM 105-174). Thus, the termination notice sent to Petitioner stated an improper basis for termination. Because of the improper notice, a simple conclusion that MDHHS improperly terminated Petitioner's MA benefits could follow. MDHHS contended otherwise.

The MA program includes several sub-programs or categories. BEM 105 (October 2023) p. 1. 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. *Id.* MA 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. *Id.*

Petitioner previously received SSI benefits. MDHHS accordingly issued Medicaid benefits to Petitioner for being an SSI recipient. As of some unspecified date, the Social Security Administration issued to Petitioner RSDI instead of SSI benefits. Due to Petitioner no longer being eligible for Medicaid based on status as an SSI recipient, MDHHS reasonably sought to update Petitioner's Medicaid eligibility.

When SSI benefits stop, MDHHS's central office evaluates the reason based on SSA's negative action code. BEM 150 (January 2024) p. 6. In some cases, SSI benefits stop for a reason that prevents further eligibility (e.g., death, moving to another state...); in such cases, a closure notice is sent to the client. When further MA eligibility is possible, MDHHS is to transfer MA eligibility to the MA category of SSI-T *Id.* In such cases, MDHHS is to schedule a redetermination date set for the second month after transfer to allow for an ex parte review. *Id.*

An ex parte review is a determination without the involvement of the recipient and other household members. Bridges Program Glossary (January 2022) p. 25. It is based on a review of all materials available to the specialist that may be found in the recipient's current Medicaid eligibility case file. *Id.* A redetermination/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 categories. BAM 210 (January 2024) p. 2. When possible, a redetermination/ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. *Id.*

MDHHS testified it updated Petitioner's Medicaid to a category of SSI-T as of some unspecified date. MDHHS also testified that Petitioner received MA under SSI-T as of December 2023.

Petitioner submitted to MDHHS an application on November 17, 2023, requesting MA benefits. Exhibit A, pp. 11-16. The submission date suggests that Petitioner was aware of a need to update Medicaid eligibility following the end of SSI benefits. Rather than processing the application as part of an ex parte review, MDHHS denied the application on December 9, 2023, for the stated reason that Petitioner was already receiving MA benefits. Exhibit A, pp. 17-19.

MDHHS contended that its denial was proper because Petitioner received ongoing MA benefits at the time of application submission. Perhaps MDHHS properly denied the application as being unnecessary; however, MDHHS should have used the application as part of the ex parte review process. There was no evidence that MDHHS conducted any ex parte review of Petitioner's ongoing MA eligibility.

MDHHS also contended that Petitioner erred by not waiting to reapply for Medicaid benefits in January 2024: after her Medicaid benefits ended. MDHHS's contention is unpersuasive because Petitioner did not need to reapply for MA benefits at all. It was

MDHHS's responsibility to perform an ex parte review and not Petitioner's responsibility to apply after her MA benefits ended.

The evidence established that MDHHS issued improper notice to end Petitioner's MA eligibility. The evidence additionally established that MDHHS failed to conduct an ex parte review of Petitioner's ongoing MA eligibility following the end of MA under the category of SSI-T.¹ For either reason, Petitioner is entitled to a reinstatement of MA benefits.

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 commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's MA eligibility beginning January 2024 subject to the findings that MDHHS failed to send Petitioner proper notice of termination and failed to perform an ex parte review before ending MA eligibility based on SSI-T; and
- (2) Issue notice and benefit supplements in accordance with policy.

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

CG/nr



Christian Gardocki
Administrative Law Judge

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

¹ Furthermore, the evidence established that MDHHS improperly required to Petitioner to reapply for MA benefits.

Via-Electronic Mail :

DHHS

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Interested Parties

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Via-First Class Mail :

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