



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: October 20, 2023
MOAHR Docket No.: 23-005697
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 telephone hearing was held on October 10, 2023, from Lansing, Michigan. [REDACTED] [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Cynthia Powell, Assistance Payments Worker (APW) and Maia Elvine-Fair, Assistance Payments Supervisor (APS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-11.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) and the State SSI Payments (SSP) programs?

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 receiving Medicaid based on receiving Social Security Administration (SSA) issued Supplemental Security Income (SSI) benefits, MA-SSI category. (Exhibit A, p. 6)
2. Petitioner stopped receiving SSI benefits and began receiving Retirement Survivors Disability Insurance (RSDI) benefits from SSA as of December 2021. (Exhibit A, pp. 7-8)

3. Petitioner remained temporarily eligible for MA-SSI under special policies in place due to the COVID-19 public health emergency.
4. The special rules allowing for the temporarily eligibility have ended, and the Department is reviewing cases for current eligibility.
5. On August ■ 2023, a Health Care Coverage Determination Notice was issued to Petitioner stating she was not eligible for MA as of September ■ 2023. (Exhibit A, pp. 9-11)
6. On August 25, 2023, Petitioner filed a hearing request contesting the Department's determination¹.
7. On August ■ 2023, Petitioner's MA case was reinstated under the MA-SSI category for September 2023 and the MA-Terminated SSI category as of October 2023. (Exhibit A, p. 6)

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.

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. BAM 210, October 1, 2022, p. 1.

¹ The programs indicated on the hearing request included insurance, Food Assistance Program (FAP), Family Independence Program (FIP), and medical (MA). However, the evidence presented for hearing indicated the only case actions taken by the Department were regarding MA and the SSP. There was no evidence of any contested case actions regarding FAP or FIP.

When possible, an ex parte review should begin at least 90 calendar 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. BAM 210, October 1, 2022, p. 1.

A recipient losing Medicaid under a category for which a DCH-1426 Application for Health Coverage & Help Paying Costs is not needed may need to complete a DCH-1426 in order to transfer to another MA category if a DCH- 1426 has not been approved for another program within the past 12 months. Always give the recipient a reasonable opportunity to complete the DCH-1426 and to provide the verification of eligibility under other categories before termination of MA; see BAM 220, Case Actions. BAM 115, January 1, 2023, p. 9.

BAM 220 further addresses ex parte review for MA:

MA Only

An ex parte review (see glossary) must begin at least 90 days (when possible) prior to the close of any Medicaid Type of Assistance.

- When the ex parte review shows that a recipient does have eligibility for Medicaid under another category, change the coverage.
- When the ex parte review shows that a recipient may have continuing eligibility under another category, but there is not enough information in the case record to determine continued eligibility, send a verification checklist (including disability determination forms as needed) to proceed with the ex parte review. If the client fails to provide requested verification or if a review of the information provided establishes that the recipient is not eligible under any MA category, send timely notice of Medicaid case closure.
- When the ex parte review suggests there is no potential eligibility under another MA category, send timely notice of Medicaid case closure.

When it is determined that a recipient will no longer meet the eligibility criteria for FIP-related Medicaid, because of an actual or anticipated change, determine whether the recipient has indicated or demonstrated a disability (see glossary) as part of the ex parte review (see glossary).

- If the ex parte review reveals the recipient has already been determined disabled for purposes of qualifying for a disability based Medicaid eligibility category, by the SSA or the department, and the determination is still valid, continue the recipient's Medicaid eligibility under the disability-based Medicaid category for which the recipient is otherwise eligible.

- If, during the ex parte review it is determined a recipient has indicated or demonstrated a disability, request from the recipient additional information needed to proceed with a disability determination. Pending the determination, continue the recipient's Medicaid.
 - If the recipient fails to provide the information requested after being given a reasonable opportunity to do so, and eligibility under all other categories has been ruled out, send timely notice of Medicaid case closure indicating the person is not eligible for disability based Medicaid as well as FIP related categories.
 - If, following the disability determination process, the recipient is determined to not be disabled for purposes of qualifying for disability-based Medicaid categories and eligibility under all other categories has been ruled out, send timely notice of Medicaid case closure indicating the person is not eligible for disability-based Medicaid as well as FIP-related categories.
 - If, following the disability determination process, the recipient is determined disabled for purposes of qualifying for disability-based Medicaid categories, continue the recipient's Medicaid under the disability-based Medicaid category for which the recipient is otherwise eligible.

Medicaid coverage will continue until the client no longer meets the eligibility requirements for any other Medicaid TOA.

BAM 220, July 1, 2023, pp. 19-20.

For the SSP program, payments are made for only those months the recipient received a regular first of the month federal benefit. These are shown on SOLQ as a recurring payment dated the first of the month. SSPs are not issued for retroactive or supplemental federal benefits. BEM 660, October 1, 2021, p. 1.

In this case, Petitioner was receiving Medicaid based on receiving Social Security Administration (SSA) issued Supplemental Security Income (SSI) benefits, MA-SSI category. (Exhibit A, p. 6).

Petitioner stopped receiving SSI benefits and began receiving Retirement Survivors Disability Insurance (RSDI) benefits from SSA as of December 2021. (Exhibit A, pp. 7-8). However, Petitioner remained temporarily eligible for MA-SSI under special policies in place due to the COVID-19 public health emergency.

The special rules allowing for the temporarily eligibility have ended, and the Department is reviewing cases for current eligibility. On August 2023, a Health Care Coverage Determination Notice was issued to Petitioner stating she was not eligible for MA as of

September ■ 2023. (Exhibit A, pp. 9-11). It appears this was because the prior MA-SSI coverage was automatic, there had been no DCH-1426 Application for Health Coverage & Help Paying Costs. Pursuant to the above BAM 115 policy, Petitioner needed to complete a DCH-1426 in order to transfer to another MA category. (Department Testimony).

The Department testified that an application was mailed to Petitioner but has not been returned. (Department Testimony). Petitioner testified that she did not receive an application in the mail. Petitioner stated she intends to go to the local office and ask for assistance completing an application. (Petitioner Testimony).

After the hearing request was filed, on August 29, 2023, Petitioner's MA case was reinstated under the MA-SSI category for September 2023 and the MA-Terminated SSI category as of October 2023. (Exhibit A, p. 6). It appears this will allow time for the ex parte review to be completed.

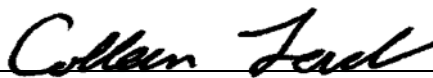
Regarding the SSP termination, payments are made for only those months the recipient received a regular first of the month federal SSI benefit. Petitioner was not eligible for the SSP benefits because she was no longer receiving SSA issued SSI benefits. (Exhibit A, pp. 7-8).

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 acted in accordance with Department policy when it determined Petitioner's eligibility for Medicaid (MA) and the State SSI Payments (SSP) programs.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CL/dm



Colleen Lack
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

Via-Electronic Mail :

DHHS
Trista Waishkey
Washtenaw County DHHS
MDHHS-Washtenaw-
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HoldenM

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MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]