

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

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Reg. No.: 15-006003
Issue No.: 2001; 2002; 2007
Case No.: ██████████
Hearing Date: May 18, 2015
County: MACOMB-DISTRICT 12
(MT CLEMENS)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant'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 May 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's witness, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████ Hearings Facilitator.

ISSUES

Did the Department properly close Claimant's Medical Assistance (MA)-AD-Care coverage effective March 1, 2015?

Did the Department properly close Claimant's Medicare Savings Program (MSP)-Qualified Medicare Beneficiaries (QMB) coverage effective March 1, 2015?

Did the Department properly determine Claimant's MA and MSP eligibility for March 1, 2015, ongoing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant is an ongoing recipient of MA-AD-Care coverage and MSP-QMB benefits. See Exhibit 2, pp. 1-9.

2. On January 22, 2015, the Department sent Claimant a Verification Checklist (VCL), which requested verification of Claimant's term insurance policy and it was due back by February 2, 2015. See Exhibit 1, pp. 4-5.
3. Claimant/witness indicated that the verification was provided on March 2, 2015, and the Department indicated verification was provided on April 1, 2015. See Exhibit 1, pp. 14-20.
4. Claimant failed to submit the verification by the due date.
5. On February 10, 2015, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying her that her MA-AD-Care and MSP-QMB benefits would close effective March 1, 2015, ongoing, for failure to submit the verification of life insurance. See Exhibit 1, pp. 6-9 and Exhibit 2, pp. 1-9.
6. On March 25, 2015, Claimant reapplied for MA and MSP benefits. See Exhibit 1, p. 1.
7. On March 30, 2015, the Department sent Claimant a determination notice notifying her that she was approved for MA – Group 2 Spend-Down (G2S) for March 2015 (with a [REDACTED] deductible) and approved for MA – G2S for April 1, 2015, ongoing (with a [REDACTED] monthly deductible). See Exhibit 1, pp. 10-13. Claimant's Eligibility Summary and Medicaid Eligibility indicated she received MA-AD-Care effective May 1, 2015, ongoing. See Exhibit 2, pp. 1-9.
8. On March 30, 2015, the determination notice also notified Claimant that she was not eligible for MSP coverage for March 2015 because her income exceeds the limit for this program/case not eligible and she was approved for MSP-QMB coverage effective April 1, 2015, ongoing. See Exhibit 1, pp. 10-13 and Exhibit 2, pp. 1-9.
9. The Department acknowledged that it erred in providing Claimant with MA-G2S coverage for March 2015 and April 2015 and she should rather receive MA-AD-Care for these benefit months.
10. On April 8, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 2-3.

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.

Preliminary matters

First, Claimant testified that she also disputed her State Emergency Relief (SER) application. However, Claimant's hearing request failed to address any dispute with SER benefits. See Exhibit 1, pp. 2-3. Therefore, this Administrative Law Judge (ALJ) lacks the jurisdiction to address her dispute with SER benefits. See BAM 600 (April 2015), pp. 1-6. Claimant can request another hearing to dispute her SER application. See BAM 600, pp. 1-6.

Second, Claimant did indicate in her hearing request a dispute with "State Assistance," however, it was determined that this statement was related to her MA and MSP benefits dispute. See Exhibit 1, pp. 2-3.

Third, Claimant requested during the hearing reimbursement of her MSP benefits (Social Security benefits). However, Claimant's hearing request disputes the denial of her MSP benefits. See Exhibit 1, pp. 2-3. The evidence established that Claimant did receive MSP-QMB coverage for April 2015, ongoing and if Claimant has not been reimbursed for this benefit month, she can attempt to request another hearing in order to request reimbursement for this month. See BAM 600, pp. 4-6. As to March 2015, this ALJ will determine if the Department properly denied Claimant's MSP benefits for this month.

MA and MSP benefits closure effective March 1, 2015

In the present case, Claimant/witness argued that the verification was provided in early March 2015. Claimant indicated that her friend had her verification and the friend was unavailable for February 2015; therefore, she was unable to submit the verification until March 2, 2015. In response, the Department testified that it did not receive the verification until April 1, 2015. See Exhibit 1, pp. 1 and 14-20. As such, on February 10, 2015, the Department sent Claimant a determination notice notifying her that her MA-AD-Care and MSP-QMB benefits would close effective March 1, 2015, ongoing, for failure to submit the verification of life insurance. See Exhibit 1, pp. 6-9 and Exhibit 2, pp. 1-9.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2015), p. 8. This includes completion of necessary forms. BAM

105, p. 8. The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130 (October 2014), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department extends the time limit up to two times. BAM 130, p. 7.

At application, redetermination, ex parte review, or other change, the Department explains to the client/authorized representative the availability of their assistance in obtaining needed information. BAM 130, p. 7. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.
- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.
- Every effort by the department was made to assist the client in obtaining verifications.

BAM 130, p. 7.

The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8.

Based on the foregoing information and evidence, the Department properly closed Claimant's MA-AD-Care and MSP-QMB coverage effective March 1, 2015, in accordance with Department policy. BAM 105, p. 8 and BAM 130, pp. 7-8. There was no indication at the time of the VCL request that an extension was necessary. In fact, Claimant acknowledged that she did not provide the verification until March 2, 2015, which is more than one month after the original due date (February 2, 2015). Claimant must ultimately complete the necessary forms in order to determine her ongoing eligibility. Because the Claimant failed to submit the verification by the due date, the Department acted in accordance with Department policy when it closed Claimant's MA-AD-Care and MSP-QMB coverage effective March 1, 2015.

MA application dated March 25, 2015

In the present case, Claimant subsequently reapplied for MA benefits after the case closure. Claimant was then ultimately approved for MA coverage effective March 1, 2015, ongoing, which resulted in no lapse of coverage. However, an issue arose during the hearing as to type of coverage Claimant received for March 2015 to April 2015. See Exhibit 2, pp. 1-9. The evidence established that Claimant received MA-AD-Care effective May 1, 2015, ongoing; however, she did not receive MA-AD-Care for March 2015 to April 2015. See Exhibit 2, pp. 1-9. Instead, Claimant received a deductible program for these two months. See Exhibit 2, pp. 1-9. The Department acknowledged that it erred in providing Claimant with MA-G2S coverage for March 2015 and April 2015 and she should rather receive MA-AD-Care for these benefit months.

MA-AD-Care is an Supplemental Security Income (SSI)-related Group 1 MA category. BEM 163 (July 2013), p. 1. This category is available to persons who are aged or disabled (AD). BEM 163, p. 1. Net income cannot exceed 100% of the poverty level. BEM 163, p. 1. All eligibility factors in this item must be met in the calendar month being tested. BEM 163, p. 1.

Persons may qualify under more than one MA category. BEM 105 (October 2014), p. 2. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105, p. 2.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it provided Claimant with MA-G2S coverage for March 2015 to April 2015. The Department acknowledged that it erred in providing Claimant with MA-G2S coverage for March 2015 and April 2015 and she should rather receive MA-AD-Care for these benefit months. In this instance, Claimant's most beneficial MA category is MA-AD-Care versus MA-G2S (with deductible). See BEM 105, p. 2. As such, the Department will apply MA-AD-Care coverage for March 2015 and April 2015 in accordance with Department policy. See BEM 105, p. 2 and BEM 163, p. 1. It should be noted that the Department properly provide Claimant with MA-AD-Care coverage effective May 1, 2015, ongoing.

MSP application dated March 25, 2015

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105, p. 1. Medicaid is also known as Medical Assistance ("MA"). BEM 105, p. 1.

The Medicare Savings Programs are SSI-related MA Categories. BEM 165 (January 2015), p. 1. The three Medicare Savings Programs are Qualified Medicare Beneficiaries (also known as full-coverage QMB); Specified Low-Income Medicare Beneficiaries (also referred to as limited coverage QMB and SLMB); and Additional Low-Income Medicare Beneficiaries (also known as ALMB or Q1). BEM 165, p. 1.

Eligibility under the QMB exists when the net income does not exceed 100% of poverty. BEM 165, p. 1. SLMB program exists when the net income is over 100% of poverty, but not over 120% of poverty. BEM 165, p. 1. ALMB program exists when the net income is over 120% of poverty, but not over 135% of poverty. BEM 165, p. 1. A person who is eligible for one of these categories cannot choose to receive a different Medicare Savings Program category. BEM 165, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 165, p. 1. Full coverage QMB pays for Medicare premiums, co-insurances, and deductibles; limited QMB/SLMB pays Medicare Part B premiums; and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, p. 2. The Department of Community Health determines whether funding is available. BEM 165, p. 2.

Before proceeding to MPS analysis, the evidence established that Claimant received MSP-QMB coverage effective April 1, 2015, ongoing. See Exhibit 2, p. 6. Therefore, this analysis will only determine if the Department properly determined that Claimant was not eligible for MSP coverage for March 2015.

In the present case, Claimant applied for MSP benefits on March 25, 2015. See Exhibit 1, p. 1. Thus, it has to be determined if Claimant is eligible for MSP coverage for one of the three MSP categories.

First, the Department begins QMB coverage the calendar month after the processing month. BEM 165, p. 3. The processing month is the month during which an eligibility determination is made. BEM 165, p. 3. QMB is not available for past months or the processing month. BEM 165, p. 3. Because Claimant's application month is March 2015, she would not be eligible for QMB coverage for this processing month. See BEM 165, p. 3.

Second, SLMB coverage is available for retro MA months and later months. BEM 165, p. 3. However, SLMB is only available for months income exceeds the QMB limit. BEM 165, p. 3. A person cannot choose SLMB in place of QMB in order for coverage to start sooner (example, to get retro MA). BEM 165, p. 3. In this instance, Claimant cannot choose SLMB in place of QMB in order for her coverage to start earlier, i.e., March 2015. See BEM 165, p. 3.

Third, ALMB coverage is available for retro MA months and later months; however, not for time in a previous calendar year. BEM 165, p. 3. As stated previously, ALMB program exists when the net income is over 120% of poverty, but not over 135% of poverty. BEM 165, p. 1. RFT 242 states that the ALMB monthly income limits for a fiscal group size of one, effective April 1, 2014, is [REDACTED]. RFT 242 (October 2014), p. 2. The Department testified that Claimant was not eligible because she had full coverage MA-AD-Care. However, Claimant did not have MA-AD-Care for March 2015. Moreover, the denial reason stated income exceeds the limit for this program and the Department failed to provide any MSP budget showing such. See Exhibit 1, p. 10. As such, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's MSP-ALMB eligibility for March 2015. However, the Department properly demonstrated that Claimant is not eligible for MSP-QMB or MSP-SLMB for March 2015. The Department will only redetermine Claimant's eligibility for MSP-ALMB for March 2015.

DECISION AND ORDER

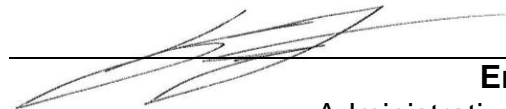
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department (i) acted in accordance with Department policy when it closed Claimant's MA-AD-Care and MSP-QMB coverage effective March 1, 2015; (ii) acted in accordance with Department policy

when provided Claimant with MA-AD-Care coverage effective May 1, 2015, ongoing (iii) did not act in accordance with Department policy when it provided Claimant with MA-G2S coverage for March 2015 to April 2015; (iv) acted in accordance with Department policy that Claimant did not qualify for MSP-QMB or MSP-SLMB for March 2015 and properly provided Claimant with MSP-QMB coverage effective April 1, 2015, ongoing; and (v) failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's MSP-ALMB eligibility for March 2015.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to MA-AD-Care and MSP-QMB closure (determination notice dated February 10, 2015); MA-AD-Care effective May 1, 2015, ongoing (determination notice dated March 30, 2015); MSP-QMB or MSP-SLMB for March 2015; and MSP-QMB effective April 1, 2015, ongoing and **REVERSED IN PART** with respect to MA-G2S coverage for March 2015 to April 2015 and MSP-ALMB for March 2015.

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. Provide Claimant with MA-AD-Care coverage from March 1, 2015 to April 30, 2015 in accordance with Department policy;
2. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not from March 1, 2015 to April 30, 2015;
3. Redetermine Claimant's MSP-ALMB eligibility for March 2015;
4. Issue supplements to Claimant for any MSP-ALMB benefits she was eligible to receive but did not for March 2015; and
5. Notify Claimant of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/20/2015**

Date Mailed: **5/20/2015**

EJF/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]