

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 15-007615
Issue No.: 2007
Case No.: [REDACTED]
Hearing Date: June 29, 2015
County: Wayne (55-Hamtramck)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on June 29, 2015, from Hamtramck, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly close Claimant's Medicare Savings Program (MSP) case?

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 was an ongoing recipient of MSP benefits.
2. On February 1, 2015, the Department closed Claimant's MSP case.
3. On April 30, 2015, Claimant requested a hearing disputing the closure of her MSP case.

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).

MSP is part of the Medical Assistance (MA) program. 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.

Claimant's MSP case closed effective February 1, 2015. At the hearing, the Department presented evidence showing that, effective June 1, 2015, Claimant's MSP case had been reinstated under SLMB, the MSP category in which the State pays for a client's Medicare Part B premiums (Exhibit 1). BEM 165 (January 2015), p. 2. Claimant confirmed that her MSP case had reopened June 2015. However, the Department testified that Claimant's MSP benefits were not being reinstated for February 1, 2015, to May 31, 2015 because, according to its buy-in unit, Claimant had been characterized as MA-eligible under the Healthy Michigan Program (HMP) during that period and, as such, ineligible for MSP benefits. There was no other evidence, most particularly a notice of case action, providing any other explanation for the closure of Claimant's MSP case (or the date she was notified of such closure).

Claimant's SOLQ report (Exhibit B) showed that Claimant had been a recipient of Medicare Part A and Part B insurance since February 1990. As a Medicare recipient, Claimant was ineligible for HMP coverage. Michigan Department of Community Health, Medicaid Provider Manual, Healthy Michigan Plan, § 1.1, *available at* <http://www.mdch.state.mi.us/dch-medicaid/manuals/MedicaidProviderManual.pdf>. However, the Department cannot rely on its improper designation of Claimant's MA category to deny her MSP benefits she was otherwise eligible to receive. At the hearing, the Department acknowledged that Claimant was disabled and received Retirement, Survivors and Disability Insurance (RSDI) benefits on the basis of her disability. The Department did not present any evidence showing that Claimant did not meet any of the financial or nonfinancial factors for MSP eligibility between February 1, 2015 and May 31, 2015.

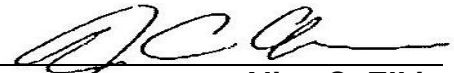
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's MSP case.

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. Reinstate Claimant's MSP case effective February 1, 2015;
2. Issue supplements to the Social Security Administration for MSP payments Claimant was eligible to receive but did not from February 2015 through May 2015.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/30/2015**

Date Mailed: **7/01/2015**

ACE / pf

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]

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