

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

**IN THE MATTER OF:**

[REDACTED]

MAHS Reg. No.: 15-014570  
Issue No.: 2001, 2003, 2004  
Agency Case No.: [REDACTED]  
Hearing Date: September 28, 2015  
County: MACOMB-DISTRICT 20

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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; 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 September 28, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner, [REDACTED]. [REDACTED] also appeared as a Witness on Petitioner's behalf. [REDACTED], an interpreter, also appeared. The Department was represented by [REDACTED], Hearing Facilitator.

**ISSUE**

Did the Department properly close the Petitioner's QMB case in December 2014?

Was the Petitioner's hearing request regarding the December 2014 closure timely?

Did the Department properly pay the Petitioner's QMB for February 2015?

**FINDINGS OF FACT**

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

1. The Department sent the Petitioner a redetermination dated [REDACTED] to the wrong address, due to Department caseworker error. Exhibit 2
2. The Department changed the Petitioner's address based upon another individual's shelter verification with a similar last name, but which was spelled differently. The Petitioner and his spouse have lived at their current [REDACTED] address ([REDACTED]) since 2009. The Petitioner has also been an ongoing MA recipient for many years.

3. The Petitioner's QMB case (case number 102192722) closed effective J [REDACTED] for failure to return the redetermination. Petitioner reapplied for MA on [REDACTED]. The Petitioner never received the redetermination or the Health Care Coverage Determination Notice closing QMB.
4. The Department issued a Health Care Coverage Determination Notice on [REDACTED], approving the Petitioner for the Medicare Savings Program QMB. Exhibit 3
5. The Department conceded that it erred in processing the Petitioner's most recent application in January 2015, and that the Petitioner was entitled to QMB beginning February 2015.
6. The Petitioner requested a hearing on [REDACTED] protesting the Department's action.

### **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.

In this case, the Department conceded that it did not properly process the Petitioner's ongoing QMB after Petitioner reapplied in January 2015, as the Petitioner is entitled to receive QMB for February 2015 as provided by Department policy.

### **MEDICARE SAVINGS PROGRAMS COVERAGE BEGIN DATES**

#### **QMB Begin Date**

Begin QMB coverage the calendar month after the processing month. The processing month is the month during which an eligibility determination is made. QMB is **not** available for past months or the processing month. BEM 165, (October 1, 2015) p.3

As regards the Department's closure of the Petitioner's QMB by Notice dated [REDACTED], effective [REDACTED], it is determined that such closure was in error. The Health Care Coverage Determination Notice dated [REDACTED], which the Petitioner credibly testified that he never received, closed the Petitioner's QMB without proper notice. The Notice was sent to the wrong address due to an error by the Department. The Petitioner also never received the Redetermination due to the Department's error sending it to the wrong address. Based upon this error, the Petitioner never received notice of the original closure notice. Thus, Petitioner is entitled to have the redetermination reprocessed so that ongoing eligibility can be properly determined as it never was properly processed due to the Department sending both documents to the wrong address. The error occurred when the Department received a verification of shelter from an individual who spelled their name [REDACTED] (Petitioner's last name is spelled [REDACTED]). The shelter verification had no case number. Nonetheless, even given these differences, the Department erroneously changed the Petitioner's address. Given the fact that the Petitioner never received notice of the original closure or the redetermination, the Petitioner's hearing request is deemed timely as the Department failed to properly process the redetermination and the Petitioner never received notice of the closure. BAM 600, (October 1, 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 failed to pay the Petitioner QMB for February 2015 in accordance with Department policy. The Department did not act in accordance with Department policy when it closed the Petitioner's QMB for failure to complete the Redetermination and sent the both the redetermination and the Health Care Determination Notice of [REDACTED] to the Petitioner at the incorrect address.

### **DECISION AND ORDER**

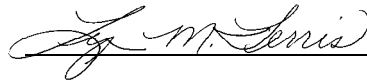
Accordingly, the Department's decision is

**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. The Department shall process payment of QMB benefits for February 2015 in accordance with Department policy.
2. The Department shall reinstate the Petitioner's QMB case effective [REDACTED] and shall reprocess and complete the redetermination.

3. The Department, upon completion of the redetermination, shall issue a QMB supplement for January 2015 if the Petitioner is deemed eligible for QMB ongoing in accordance with Department policy.



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**Lynn M. Ferris**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **10/26/2015**

Date Mailed: **10/26/2015**

LMF / hw

**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:

