

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

**IN THE MATTER OF:**



MAHS Reg. No.: 15-015836  
Issue No.: 2004  
Agency Case No.:   
Hearing Date: November 9, 2015  
County: Wayne (15)

**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; 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 November 9, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by , specialist.

**ISSUE**

The issue is whether MDHHS properly complied with a Michigan Administrative Hearing System (MAHS) administrative order concerning Petitioner's Medicare Savings Program (MSP) 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. Petitioner was an ongoing Medicaid and MSP recipient.
2. On an unspecified date, MDHHS terminated Petitioner's Medicaid and MSP eligibility.
3. On June 22, 2015, MAHS issued a hearing decision ordering MDHHS to reinstate Petitioner's AD-Care and Qualified Medicare Beneficiary (QMB) eligibility, effective April 2015.
4. MDHHS reinstated Petitioner's AD-Care eligibility.
5. On an unspecified date, MDHHS issued Specified Low-Income Beneficiary (SLMB) eligibility to Petitioner for the months of April 2015 through July 2015.

6. On an unspecified date, MDHHS issued QMB eligibility to Petitioner, effective October 2015.
7. On August 31, 2015, Petitioner requested a hearing to dispute the failure by MDHHS to fully reinstate Medicaid and MSP eligibility.

### **CONCLUSIONS OF LAW**

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing disputing a determination of her MA eligibility since April 2015. An in-depth analysis is unnecessary because the dispute was addressed by a previous administrative decision.

Petitioner presented a Hearing Decision (Exhibits A1-A5) dated July 22, 2015. The decision ordered MDHHS to perform the following actions: reinstate Petitioner's AD-Care eligibility (effective April 2015), reinstate Petitioner's MSP eligibility under QMB (effective April 2015), and to notify Petitioner in writing. Petitioner contended MDHHS has not yet complied with the administrative order.

MDHHS presented an Eligibility Summary (Exhibit 1). The summary indicated Petitioner received AD-Care eligibility since April 2014. Petitioner testimony conceded her AD-Care eligibility was processed. This resolves Petitioner's dispute concerning Medicaid; Petitioner's MSP eligibility remains disputed.

MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles (see BEM 165 (January 2015), p. 1). Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. *Id.* Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if DHS funding is available. *Id.*

MDHHS presented Eligibility Summaries (Exhibits 2-3) indicating Petitioner received SLMB benefits from April 2015 through July 2015. SLMB was listed as denied for August and September of 2015. QMB was approved beginning October 2015.

Petitioner's eligibility history verified MDHHS failed to issue any MSP benefits to Petitioner for August 2015 or September 2015. It is found that MDHHS failed to issue QMB benefits to Petitioner for these months.

MDHHS testimony suggested that SLMB eligibility is the equivalent of QMB eligibility and no further actions need be taken. Petitioner responded that she has unpaid medical expenses, in part, due to MDHHS' failure to continue QMB eligibility.

MDHHS policy clearly states QMB coverage is a superior coverage than SLMB. Though SLMB and QMB each cover the costs of Medicare Part B premiums, QMB additionally covers all Medicare premiums, copayments and deductibles. It is found that issuance of SLMB benefits does not comply with the order that MDHHS issue QMB benefits to Petitioner.

When a decision requires a case action different from the one originally proposed, a DHS-1843, Administrative Hearing Order Certification, is sent with the hearing decision. BAM (April 2015), p. 42. [MDHHS is to] complete the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. *Id.*

As of the date of hearing, over three months have passed and MDHHS has still not complied with the orders of the administrative hearing decision dated July 22, 2015. MDHHS will again be ordered to issue QMB benefits to Petitioner.

It should be noted that MDHHS faxed documents after the hearing which indicated that QMB benefits may have already been issued to Petitioner. The documents were not factored in the analysis because they were not admitted as exhibits nor referenced during the hearing.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to comply with the administrative order dated July 22, 2015. It is ordered that MDHHS, within 10 days of the date of mailing of this decision, issue QMB benefits to Petitioner for all months since April 2015, subject to the finding that SLMB benefits are not a satisfactory substitution for QMB. The actions taken by MDHHS are **REVERSED**.



**Christian Gardocki**

Administrative Law Judge  
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **11/12/2015**

Date Mailed: **11/12/2015**

CG/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:

