

**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.: 15-017576
Issue No.: 2007
Agency Case No.: [REDACTED]
Hearing Date: December 3, 2015
County: WAYNE-DISTRICT 18

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 December 3, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner); and her witness, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly supplement Petitioner for her Medicare Savings Program (MSP) benefits?

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 is an ongoing recipient of MSP-Specified Low-Income Medicare Beneficiaries (SLMB) benefits. See Exhibit A, pp. 8-9.
2. On [REDACTED] the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was not eligible for MSP benefits effective [REDACTED], ongoing. See Exhibit A, pp. 6-7.
3. Petitioner's State On-Line Query (SOLQ) shows that her Medicare Part B stop date was [REDACTED]. See Exhibit A, p. 3.
4. The Department acknowledged that it erroneously closed Petitioner's MSP benefits. See Exhibit A, p. 1.

5. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, p. 1.

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.

As a preliminary matter, Petitioner argued that her MSP benefits closed effective August of 2015. However, the Department argued that her MSP benefits closed effective September of 2015. Petitioner's State On-Line Query (SOLQ) shows that her Medicare Part B stop date was [REDACTED]. See Exhibit A, p. 3. Moreover, the determination notice indicated that her benefits closed effective [REDACTED]. See Exhibit A, pp. 6-7. Based on the above information, the undersigned will address the Petitioner's MSP benefits effective [REDACTED], as Petitioner's own SOLQ indicated that benefits stopped effective [REDACTED]. See Exhibit A, p. 3.

On [REDACTED], the Department sent Petitioner a determination notice notifying her that she was not eligible for MSP benefits effective [REDACTED], ongoing. See Exhibit A, pp. 6-7. The Department acknowledged that it erroneously closed Petitioner's MSP benefits. See Exhibit A, p. 1. Prior to today's hearing, the Department indicated that it issued a help desk ticket in order to have the benefits reinstated. See Exhibit A, p. 1. During the hearing, the Department testified that Petitioner's benefits had been reinstated; however, indicating that it does take time in order to supplement Petitioner for any loss in benefits. It should be noted that Petitioner's Eligibility Summary shows that she had no lapse in her MSP-SLMB coverage. See Exhibit A, pp. 8-9.

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 (January 2014), 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.

Ultimately, Petitioner sought to be reimbursed for her MSP benefits and there was no dispute from the Department that Petitioner should be reimbursed, but that it does take time to initiate the supplement.

Based on the foregoing information and evidence, the Department failed to supplement Petitioner for any MSP benefits that she was eligible to receive but did not from [REDACTED] ongoing. The evidence established that the Department had erroneously closed Petitioner's MSP benefits, but that they subsequently reinstated benefits. See Exhibit A, pp. 8-9. However, Petitioner has yet to be supplemented for her loss in coverage. As such, the Department will issue supplements to Petitioner for any MSP benefits she was eligible to receive but did not from [REDACTED], ongoing.

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 did not act in accordance with Department policy when it failed to supplement Petitioner for any MSP benefits that she was eligible to receive but did not from [REDACTED], ongoing.

Accordingly, the Department's MSP/MA 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. Issue supplements to Petitioner for any MSP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
2. Notify Petitioner of its decision.



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

Date Signed: **12/4/2015**

Date Mailed: **12/4/2015**

EF / 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:

