

**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.: 15-009307
Issue No.: 2007; 5004
Case No.: ██████████
Hearing Date: July 16, 2015
County: Macomb-District 12

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, a telephone hearing was held on July 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

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

Did the Department properly process Claimant's State Emergency Relief (SER) Decision Notice concerning furnace repairs?

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 approved for MSP benefits under the Qualified Medicare Beneficiaries (QMB) for April 1, 2015, ongoing (Exhibit C).
2. In a Hearing Decision issued by on May 20, 2015, Administrative Law Judge (ALJ) Eric Feldman ordered the Department to redetermine Claimant's eligibility for MSP benefits under the Additional Low-Income Medicare Beneficiaries (ALMB) program for March 2015 (Exhibit A).

3. In response to the Hearing Decision, on June 1, 2015, the Department sent Claimant a Health Care Coverage Notice notifying her that she was not eligible for MSP benefits in March 2015 (Exhibit B).
4. On January 21, 2015, the Department approved Claimant's SER Application for \$447.95 for furnace repair assistance.
5. On April 16, 2015, the Department issued a warrant to Claimant's provider, [REDACTED] in the amount of \$447.95 (Exhibit G).
6. On June 3, 2015, Claimant filed a request for hearing disputing the Department's actions concerning her MSP and SER cases. She also indicated that payments to her chore provider had not been reinstated.

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

MSP is part of the Medical Assistance (MA) program. MA 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 raised three concerns regarding her MSP case: (i) her MSP coverage for February 2015; (ii) her MSP coverage for March 2015; and (iii) the continued retention by the Social Security Administration (SSA) of her \$104.90 Medicare Part B premium from her Social Security benefits.

February 2015 MSP Coverage

Claimant argued that the Department had failed to process her MSP case for February 2015. The eligibility summary shows that Claimant was approved for MSP benefits in February 2015 (Exhibit F). Claimant presented a bank statement showing that \$220 was withheld from her April 2015 Social Security benefits and \$105 was withheld from her May 2015 Social Security benefits (Exhibit 1A). Claimant argued that, because Social Security benefits are issued each month for the preceding month, the \$220 withheld in April 2015 was for her Part B Medicare premium for February 2015 and March 2015. However, unlike the month covered by Social Security benefits, MSP

benefits apply to the month MSP benefits are issued. See BAM 810 (April 2014), pp. 7-8. Therefore, the amounts withheld from Claimant's April 2015 Social Security benefits are consistent with SSA recouping the Part B Medicare premium for March 2015 and April 2015. As such, the Department established that Claimant's MSP benefits were active for February 2015.

March 2015 MSP Coverage

There are three categories of MSP coverage: (1) QMB, which pays for a client's Medicare premiums (both Part A and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) ALMB, which pays for a client's Medicare Part B premiums when funding is available. BEM 165 (January 2015), p. 2. In his May 20, 2015 Hearing Decision, ALJ Feldman concluded that Claimant was not eligible for MSP benefits in March 2015 under the QMB or the Specified Low-Income Medicare Beneficiaries (SLMB) program and ordered the Department to redetermine her eligibility for MSP benefits under the ALMB program.

The Department determined that Claimant was not eligible for MSP benefits under ALMB and sent her a June 1, 2015, Health Care Coverage Determination Notice denying MSP benefits for March 2015 (Exhibit B). At the hearing, the Department explained that Claimant was not eligible for MSP benefits for March 2015 under the ALMB program because her receipt of full-coverage MA in March 2015 precluded her ALMB eligibility.

Department policy provides that an individual who is eligible and receives MA under any category other than a deductible case is not eligible for ALMB. BEM 165 (January 2015), p. 6. In this case, the Department established that in March 2015 Claimant was eligible for and received MA coverage under the Ad-Care program, which is a full-coverage MA category with no deductible (Exhibit E). Therefore, therefore, the Department acted in accordance with Department policy when it concluded that Claimant was not eligible for MSP coverage under ALMB.

Because the Department acted in accordance with Department policy when it determined that Claimant was not eligible for MSP for March 2015 under ALMB and ALJ Feldman had determined in the May 20, 2015, Hearing Decision that Claimant was not eligible for MSP for March 2015 under QMB or SLMB, Claimant was not eligible for MSP coverage under any of the available categories in March 2015.

Processing of MSP Case

At the hearing, Claimant expressed concerns that the Social Security Administration (SSA) continued to withhold \$104.90 from each month's benefit issuance to pay her Part B Medicare premium despite ALJ Feldman's finding that she was an active MSP recipient under the QMB program effective April 2015. At the hearing, the Department presented a March 30, 2015, Notice of Case Action (Exhibit C) showing that Claimant was approved for MSP benefits effective April 2015 ongoing and contended that the

reason SSA continued to withhold Claimant's Medicare Part B premium was because it took SSA about 120 days to apply MSP benefits to a client's case and that Claimant was eligible for reimbursement of any Part B Medicare premiums withheld from her Social Security benefits since April 2015.

Consistent with the Department's testimony, Department policy provides that it takes about 120 days after the effective date of the buy in program, which is the State program used to pay Part B premiums, for SSA to adjust the client's Social Security check and refund the client for premiums the client paid while the buy-in was being processed. BAM 810 (July 2015), p. 7-8. However, the Department provided an eligibility summary for Claimant's MSP case that calls to doubt whether Claimant's MSP case is being processed with an effective date of April 1, 2015. The eligibility summary shows that Claimant's QMB EDG status for March 2015 was "closed," for April 2015 to June 2015 was "no change," and for July 2015 ongoing was "approved" (Exhibit F). The EDG status of "no change" following an EDG status of closed would indicate that Claimant's EDG status continued to be closed for April 2015 to June 2015. An SOLQ report for Claimant that would show the effective date for the State buy-in was not available according to the Department,.

Based on the unclear eligibility summary and the absence of any evidence that Claimant's MSP case was processed for April 2015 to June 2015 in addition to July 2015 ongoing, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy in processing Claimant's MSP case for April 2015 ongoing.

SER

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Claimant was concerned because her furnace repairman had not been paid \$447.95 in accordance with the Department's January 21, 2015, SER Decision Notice. At the hearing, the Department provided a benefit summary inquiry showing that a warrant in the amount of \$447.95 was issued to [REDACTED] on April 16, 2015 (Exhibit G). Although there was an issue raised at the hearing as to the provider's correct name, in the authorization/invoice, the provider identified its company name as [REDACTED]." (Exhibit 1B). Further, the Department testified that it had not received any returned check issued to [REDACTED]. Based on the evidence presented, the Department established that it issued payment to the furnace repair provider in accordance with the SER Decision Notice.

Claimant is advised that if her provider believes that the warrant was not received, it can seek a replacement warrant in accordance with BAM 500 (July 2014), pp. 1-8.

Chore Provider Services

In her hearing request, Claimant also was concerned that payments to her chore provider had not been reinstated. At the hearing, Claimant explained that after her hearing request the Department had started paying the provider but that just prior to the hearing, the amount paid had been reduced. Because the issue raised in Claimant's hearing request was resolved prior to the hearing, that issue is dismissed. Mich Admin Code, R 792.11002. She was advised to request a hearing concerning any new issues that arose after the June 3, 2015, hearing request and to specify that the issue concerned chore services so that the matter could be forwarded to adult services to address.

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 acted in accordance with Department policy when it processed Claimant's SER Decision Notice failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed her MSP case for April 1, 2015 ongoing.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the processing of Claimant's SER case and **REVERSED IN PART** with respect to the processing of her MSP case for April 1, 2015, ongoing. Claimant's hearing request concerning chore provider services is **DISMISSED**.

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. Process Claimant's MSP case for April 1, 2015 ongoing; and
2. Issue supplements to SSA for any MSP benefits Claimant was eligible to receive but did not from April 1, 2015, ongoing.



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

Date Signed: **7/24/2015**

Date Mailed: **7/24/2015**

ACE / tlf

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

