

**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.: 15-013867
Issue No.: 2001
Case No.: ██████████
Hearing Date: September 23, 2015
County: Wayne-District 41

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 September 23, 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 Liaison.

ISSUE

Did the Department properly provide Claimant with Medicare Savings Program (MSP) coverage for July 2015 ongoing?

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 is a recipient of gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of \$1175 and has received Medicare Part A and Part B coverage since March 1, 1995 (Exhibit C).
2. Claimant applied for MSP benefits on February 11, 2014.
3. On February 14, 2014, the Department sent Claimant a Notice of Case Action notifying him that his MSP application was denied (Exhibit B).
4. On June 24, 2015, Claimant reapplied for MSP benefits.

5. On June 24, 2015, the Department sent Claimant a Health Care Coverage Determination Notice notifying him that he was eligible for MSP coverage effective June 1, 2015 ongoing (Exhibit D).
6. On July 20, 2015, Claimant filed a request for hearing alleging that the Department improperly denied his February 2014 MSP application and seeking MSP benefits from February 2014 ongoing (Exhibit A).

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. MSP is part of the MA program.

MSP is a State-administered program in which the State pays, depending on the client's income-eligibility, the client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2015), pp 1-2; BAM 810 (April 2014), p. 1. The State pays Medicare premiums for eligible MSP recipients directly to the Social Security Administration. BAM 810 (April 2014), p. 4.

In this case, Claimant's June 24, 2015 application was approved for MSP benefits for June 1, 2015 ongoing. Claimant requested a hearing on July 20, 2015 seeking retro MSP benefits from February 2014, when he first applied for such benefits, until his MSP coverage was activated under his June 2015 application. The Department first raised the issue that Claimant's hearing request was not timely.

Generally, a client has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (April 2015), p. 6. In this case, the Department established that it sent Claimant a February 14, 2014 Notice of Case Action notifying him that his February 11, 2014 MSP application was denied (Exhibit B). Claimant denied receiving this Notice. He testified that the Notice was sent to his old address and he had advised his worker in December 2013 that he would be moving to his current address at the beginning of 2014. The Department testified that it was the office's policy to make address changes only after a client had actually moved.

Furthermore, the Department's records showed that Claimant did not notify it of his current address until June 2014. It is further noted that Claimant applied for MSP benefits on February 11, 2014, just three days before the Notice was sent and it is likely that the Notice was sent to the address Claimant identified on the application. Based on the evidence presented, Claimant has failed to rebut the presumption of his receipt of the February 14, 2014 Notice of Case Action. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976). Because Claimant's hearing request is untimely with respect to the February 14, 2014 Notice of Case Action, the scope of this Hearing Decision is limited to the availability of any MSP benefits to Claimant based on his June 24, 2015 MSP application.

There are three MSP categories: (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, pp. 1-2. The MSP category of coverage is dependent on income: an individual who is the sole fiscal member of the MA group is eligible for QMB if his monthly net income is no more than \$1,000.83, SLMB if his net income is between \$1001.84 and \$1197.00, and ALMB if his net income is between \$1197.01 and \$1344.13. RFT 242 (May 2015), pp. 1-2; BEM 165, p. 7.

The evidence in this case showed that Claimant received gross monthly RSDI income of \$1174.90 for January 2015 to June 2015 (Exhibit C). Once Claimant's RSDI income is reduced by the \$20 disregard, his net countable monthly income was \$1154.90. See BEM 165, pp. 7-8; BEM 541 (January 2015), p. 3. Therefore, Claimant is income-eligible for MSP coverage under the SLMB program.

The MSP coverage begin date is dependent on the MSP category the individual is eligible to receive:

- QMB coverage begins the calendar month after the processing month (the month during which an eligibility determination is made) and is **not** available for past months or the processing month.
- SLMB coverage is available for retro MA months and later months.
- ALMB coverage is available for retro MA months and later months, but not for time in a previous calendar year.

BEM 165, p. 3.

An individual income-eligible for QMB coverage may not elect SLMB coverage in order for coverage to start sooner. BEM 165, p. 3.

In this case, based on a June 24, 2015 application, Claimant was eligible for SLMB June 1, 2015. Although the June 24, 2015 Health Care Coverage Determination Notice notified Claimant that he was eligible for MSP effective June 1, 2015, the SOLQ shows

a Part B State buy-in start date of July 1, 2015 (Exhibits C and D). Under Department policy, the Part B buy-in *effective* date is the month QMB or SLMB coverage begins if the only basis for buy-in is MSP eligibility. BAM 810, p. 8. The buy-in is usually *processed* at the end of the calendar month that a case is opened in Bridges. BAM 810, p. 8. Based on the Department policy, Claimant was eligible for SLMB as of June 1, 2015, as shown on the Health Care Coverage Determination Notice, and, even though the claim would be processed at the end of the calendar month, the buy-in effective date should be June 1, 2015. Therefore, the Department did not act in accordance with Department policy when it activated Claimant's MSP case on July 1, 2015 rather than June 1, 2015.

As an SLMB recipient, Claimant is eligible for retro MSP coverage. Retro coverage is available back to the first day of the third calendar month prior to the current or most recent MA application. BAM 115 (January 2015), p. 11. The DHS-3243, Retroactive Medicaid Application, is used to apply for retro MA. BAM 115, p. 12.

Based on the June 24, 2015 application, Claimant is eligible for retro MSP coverage for March 2015 to May 2015 if he applied for retro coverage and is otherwise eligible for MSP coverage. In this case, the Department did not establish whether a retro application was filed in this case. Therefore, the Department did not satisfy its burden of showing that it acted in accordance with policy with respect to processing Claimant's eligibility for MSP coverage for March 2015 through May 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not activate Claimant's MSP case for March 1, 2015 through June 30, 2015.

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. Reprocess Claimant's June 24, 2015 MSP application and any retro application for MSP coverage submitted by Claimant;
2. Issue supplements to SSA for any MSP benefits Claimant was eligible to receive but did not from March 2015 ongoing; and
3. Notify Claimant in writing of its decision.



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

Date Signed: **10/01/2015**

Date Mailed: **10/01/2015**

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

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]