

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

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-015110
Issue No.: 2001
Agency Case No.: ██████████
Hearing Date: October 15, 2015
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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. After due notice, a telephone hearing was held on October 15, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, hearing facilitator.

ISSUE

The issue is whether MDHHS properly failed to issue Medicare Savings Program (MSP) benefits to Claimant.

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 an ongoing MSP recipient.
2. On an unspecified date, MDHHS terminated Claimant's MSP eligibility leading Claimant to subsequently request a hearing.
3. Following an administrative hearing on March 9, 2015, the Michigan Administrative Hearing System issued a Hearing Decision affirming a MDHHS denial of MSP benefits through November 2014.
4. On May 11, 2015, MDHHS issued a Health Care Coverage Determination Notice (Exhibits 1-2) informing Claimant of MSP eligibility since December 2014.

5. Beginning June 2015, MDHHS issued ongoing MSP benefits to Claimant.
6. On August 10, 2015, Claimant requested a hearing to dispute the failure by MDHHS to issue MSP benefits from July 2014 through May 2015.

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).

Claimant's hearing request indicated he was missing MSP benefits from July 2014 through November 2014. The issue was already addressed by a Hearing Decision following a hearing on March 9, 2015. The presiding ALJ affirmed a MDHHS denial of Claimant's MSP eligibility through November 2014. As it happened, Claimant requested a rehearing/reconsideration of the decision. Claimant's request was denied and no further appeals were made.

Res judicata is a legal principle generally prohibiting the reopening of previously concluded litigation. Claimant had his MSP eligibility through November 2014 considered by an administrative hearing and he did not prevail at hearing or on appeal. Res judicata prohibits Claimant from raising the same issue. Accordingly, Claimant's claim for MSP eligibility from July 2014 through November 2014 is dismissed.

Claimant's hearing request also contended that he is eligible for MSP benefits since December 2014. Claimant testimony stated that MDHHS already approved his MSP eligibility, and he is simply awaiting for MDHHS to issue benefits.

MDHHS presented a Health Care Coverage Determination Notice dated May 11, 2015 (Exhibits 1-3). The notice stated the following:

Johnnie Carter- Beneficiary ID [REDACTED] is eligible:
12/01/2014- Ongoing
02/01/2015- Ongoing (Medicare Savings Program)

The notice clearly approved Claimant for MSP eligibility since February 2015. The notice's reference to December 2014 might have concerned Medicaid eligibility. MDHHS testimony though indicated that Claimant was eligible for MSP benefits as far back as September 2014.

Presented evidence was persuasive in establishing that Claimant is entitled to MSP benefits since December 2014. Res judicata still bars Claimant from an administrative remedy for MSP eligibility from November 2014 and earlier.

It should be noted that there is skepticism that Claimant is income-eligible for MSP benefits. Claimant's countable gross Social Security Administration income was conceded by both parties to be \$[REDACTED]/month. Based on hearing testimony, MDHHS appears to be budgeting a lesser income in determining Claimant's MSP eligibility. Nevertheless, any skepticism over Claimant's MSP eligibility was trumped by MDHHS' written notice of MSP approval and hearing testimony conceding Claimant's eligibility. It is found that MDHHS found Claimant to be eligible for MSP benefits since December 2014.

Claimant's testimony conceded that he began receiving MSP benefits effective June 2015. Thus, only Claimant's MSP eligibility from December 2014 through May 2015 is disputed. MDHHS will be ordered to issue MSP benefits for this time period.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to issue MSP benefits to Claimant. It is ordered that MDHHS issue MSP benefits to Claimant for the months from December 2014 through May 2015. The actions taken by MDHHS are **REVERSED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **10/16/2015**

Date Mailed: **10/16/2015**

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]