

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

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-017535
Issue No.: 2001
Agency Case No.: ██████████
Hearing Date: December 10, 2015
County: Wayne-District 19 (Inkster)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on December 10, 2015, from Detroit, Michigan. The Petitioner was represented by ██████████ ██████████ Authorized Hearing Representative (AHR) from ██████████ ██████████. The Department of Health and Human Services (Department) was represented by ██████████ ██████████, Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's application for Medical Assistance (MA) benefits under the Medicare Savings Program (MSP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On April 30, 2015, Petitioner's AR submitted an application for MSP benefits on Petitioner's behalf, retroactive to January 2015. (Exhibit C)
2. On May 7, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he was ineligible for MSP benefits on the basis that he did not meet the basic criteria for MSP benefits and on the basis that he is not enrolled in Medicare Part A. (Exhibit A)
3. Petitioner was enrolled in Medicare Part A, Medicare Part B and was a recipient of RSDI benefits. (Exhibit B)

4. On August 19, 2015, Altegra Health, as AHR requested a hearing disputing the Department's denial of Petitioner's MSP application.

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, it should be noted that there was some discussion soon after commencement of the hearing concerning the timeliness of Petitioner's hearing request. Department policy provides that a client or AHR is to deliver, mail, or fax a hearing request to the local Department office. The client or AHR has 90 days from the date of the written notice of case action to request a hearing and the request must be received in the local office within the 90 days. BAM 600 (April 2015), pp. 4-6.

Petitioner's AHR asserted that she initially submitted a timely hearing request to Petitioner's case worker via email on August 4, 2015 and that the request was subsequently resent via fax. (See Petitioner's Hearing Request). A copy of the email was presented for review at the hearing. (Exhibit 1). As referenced above, however, a hearing request submitted by email is not acceptable pursuant to Department policy. Thus, it is determined that the date in which the faxed hearing request was received is the date of the hearing request. While generally it would follow that Petitioner's hearing request is not timely based on the date faxed, in the present case however, the Department acknowledged that it did not send Petitioner's authorized representative the notice of denial of the application and that the Health Care Coverage Determination Notice was only sent to the Petitioner. Therefore, the 90 day timeliness requirement is not applicable and the Department's denial of Petitioner's MSP application will be addressed below.

MSP are SSI-related MA categories and are neither Group 1 nor Group 2. There are three MSP categories: Qualified Medicare Beneficiaries; Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low Income Beneficiaries (ALMB). BEM 165 (January 2015), p. 1. QMB is a full coverage MSP that pays Medicare premiums

(Medicare Part B premiums and Part A premiums for those few people who have them); Medicare coinsurances; and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. BEM 165 (January 2015), p. 1. ALMB coverage is available for retro MA months and later months, however, not for time in a previous calendar year. BEM 165, p.3.

At the hearing, the Department representative confirmed that the Department received Petitioner's April 30, 2015, application for MA, with a request for retro coverage to January 2015. (Exhibit C). The Department conceded that there were certain errors in the processing of Petitioner's application and stated that the reasons for denial reflected on the Health Care Coverage Determination Notice were incorrect, as Petitioner was enrolled in Medicare Part A and was a recipient of RSDI benefits, as referenced in the SOLQ presented for review. (Exhibit A; Exhibit B). The Department testified that Petitioner's information was not properly inputted into the Bridges system, thus, his eligibility was not properly determined.

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 denied Petitioner's MSP application.

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. Register and process Petitioner's April 30, 2015, MA MSP application, retroactive to January 2015, to determine Petitioner's eligibility under the most beneficial category;
2. Provide Petitioner with any MA MSP coverage that he was entitled to receive but did not from January 2015, ongoing, and
3. Notify Petitioner and his AHR of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/17/2015**

Date Mailed: **12/17/2015**

ZB / 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]