



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 8, 2016
MAHS Docket No.: 15-022327
Agency No.: [REDACTED]
[REDACTED]

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 telephone hearing was held on February 8, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator and [REDACTED], Family Independence Manager. [REDACTED], Eligibility Specialist was also present and observed the hearing but did not provide any testimony.

ISSUE

Did the Department properly process Petitioner's 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. On or around September 3, 2013, Petitioner applied for MSP benefits.
2. Petitioner was approved for MSP benefits under the Qualified Medicare Beneficiaries (QMB) category for the period of October 1, 2013, ongoing. (Exhibit C; Exhibit D)
3. On February 17, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) informing him that effective April 1, 2015, he was

ineligible for MSP benefits on the basis that he failed to verify or allow the Department to verify information necessary. (Exhibit A)

4. The Department conceded that the April 1, 2015, MSP case closure was improper and subsequently reinstated Petitioner's MSP case, effective April 1, 2015.
5. On September 25, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he was eligible for full coverage MSP benefits effective April 1, 2015. (Exhibit B)
6. On November 23, 2015, Petitioner requested a hearing disputing the Department's actions with respect to his MSP benefits, specifically a lapse in MSP benefits

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 is part of the Medical Assistance (MA) program. The 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 are SSI-related MA categories and are neither Group 1 nor Group 2. 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. QMB coverage begins the calendar month after the processing month. The processing month is the month during which an eligibility determination is made. QMB is not available for past months or the processing month. BEM 165, pp. 3-4.

In the present case, Petitioner requested a hearing disputing the Department's actions concerning his MSP benefits, specifically a lapse in MSP benefits and a refund/reimbursement that he asserts he is entitled to.

At the hearing, the Department testified that Petitioner's MSP case was improperly closed effective April 1, 2015, and stated that when it discovered the error, it reinstated Petitioner's MSP case effective April 1, 2015, and provided him with Notice on September 25, 2015. The Department provided documentation to support its testimony.

(Exhibit A; Exhibit B). The Department conceded that there was a lapse in MSP benefits for the period of April 2015 through October 2015. To resolve the issue, the Department stated that it had contacted Buy-In Unit to inform the unit of the error and that Petitioner was eligible for QMB benefits for the period of April 1, 2015, ongoing. The Department testified that it informed the Buy-In Unit that Petitioner should be refunded for Medicare premiums that were withheld from his monthly RSDI benefit as a result of the improper case closure for the period of April 2015 to October 2015. (Exhibit E).

The Department testified that pursuant to BAM 810, the buy-in is processed at the end of the calendar month that a case is opened in Bridges and that it takes SSA about 120 days after that date in order to adjust the RSDI check and issue a refund for premiums paid while the buy-in was being processed. See BAM 810 (July 2015). The Department further testified that the Buy-In unit verbally confirmed that SSA received the payment from the Department for the period at issue and stated that additional contact was made with SSA who would not provide the Department with any record of the reimbursement to Petitioner. However, Petitioner confirmed that he received a refund/reimbursement from SSA of \$104.90 in October 2015 and a refund/reimbursement of \$314 in November 2015, which suggests that he received a refund for four months, rather than for the entire period of April 2015 to October 2015.

At the hearing, Petitioner argued that the period at issue was not April 1, 2015, to October 31, 2015, but rather October 1, 2013, to October 31, 2015. Petitioner asserted that despite being notified by SSA and the Department that the State of Michigan would be paying his Medicare premium starting October 1, 2013, money had been withheld from his monthly RSDI benefit since October 2013 and argued that it was for his Medicare premium. (Exhibit 1). Petitioner stated that since October 2013, SSA had deducted \$104.90 from his monthly benefits and that the State was not paying his Medicare premium, thus, asserting that he was eligible for a refund/reimbursement of premiums he had paid for the period of October 2013 to October 2015.

In response, the Department presented an eligibility summary and a SOLQ showing that Petitioner was approved for and has received QMB benefits since October 2013 with no lapse. (Exhibit C; Exhibit D). A review of the SOLQ also establishes that Petitioner had a Medicare buy-in start date of October 1, 2013, with no buy-in stop date. (Exhibit D). The Department additionally stated that it received an email from the Buy-In unit, confirming that the Department had been paying Petitioner's Medicare premium since October 2013 and that Petitioner should contact SSA to inquire about any other withholding, as there may be a deduction/withholding of funds due to an unrelated overpayment and/or garnishment, not Medicare premiums. (Exhibit E).

Additionally, while Petitioner provided testimony concerning the alleged \$104.90 deduction to his RSDI benefit for his Medicare premium since October 2013, Petitioner did not provide any supporting documentary evidence, and therefore, failed to establish that the Department took any negative action on his MSP case prior to the case closure effective April 1, 2015, which the Department corrected and which is addressed above.

Furthermore, the issues raised by Petitioner are not timely for hearing purposes. See BAM 600 (October 2015), pp.2-6; BAM 220 (October 2015). Thus, the issue raised by Petitioner concerning his MSP benefits for the period of October 1, 2013, to April 1, 2015, will not be addressed.

Upon further review of the evidence presented by the Department, it is found that the Department has established that it appropriately reinstated Petitioner's MSP case effective April 1, 2015, informed the Buy-In unit that Petitioner's MSP QMB case closed in error effective April 1, 2015, made payment to the Buy-In unit/SSA for amounts due for Petitioner's Medicare premiums, and asked that Petitioner be refunded by SSA in accordance with Department policy. By Petitioner's own statements, he received a refund from SSA, albeit not a full refund. Petitioner is informed that should he have any additional questions regarding other withholdings or the refund for remaining Medicare premiums not paid as of the hearing date, he may contact SSA to inquire about those issues.

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 Petitioner's MSP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



ZB/tlf

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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

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

Petitioner

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

CC:

[REDACTED]
[REDACTED]
[REDACTED]