



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 10, 2016
MAHS Docket No.: 15-023654
Agency No.: [REDACTED]
Petitioner: [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 11, 2016, from Detroit, Michigan. Petitioner appeared for the hearing with his friend, [REDACTED] and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close and process Petitioner's Medical Assistance (MA) and 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. Petitioner was an ongoing recipient of MA and MSP benefits.
2. In connection with a redetermination, Petitioner's continued eligibility for MA and MSP benefits was reviewed.
3. On November 19, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) informing him that effective December 1, 2015, his MA and MSP cases would be closed on the basis that he failed to return a redetermination. (Exhibit A)

4. Petitioner timely submitted the redetermination, however, it was not timely processed or certified by the Department.
5. On November 30, 2015, Petitioner requested a hearing disputing the Department's actions with respect to his MA and MSP cases.

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 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.

At the hearing, the Department acknowledged that Petitioner's MA and MSP cases closed effective December 1, 2015, in error and stated that after the hearing request was submitted, it reinstated Petitioner's MA and MSP cases and provided Petitioner with MA and MSP coverage with no lapse. The Department presented a December 8, 2015, Health Care Coverage Determination Notice which it sent to Petitioner to inform him that he was approved for full coverage MA benefits and full coverage MSP Program benefits for December 1, 2015, ongoing. (Exhibit B). The Department also presented an eligibility summary which shows that Petitioner was approved for MA benefits under the Ad-Care program from December 1, 2015, ongoing, and MSP benefits under the QBM program from December 1, 2015, ongoing. (Exhibit C). The Department asserted that the issue for which Petitioner requested a hearing on had been resolved, as his cases were reinstated.

Petitioner did not dispute that the Department corrected the action with respect to his MA benefits. Petitioner contended however, that due to the Department's error, the Social Security Administration (SSA) had continued to withhold \$104.90 from each month's benefit issuance to pay his Part B Medicare premium despite the Department's statement that his MSP case was reinstated and that he was approved and an active MSP recipient under the QMB program effective December 1, 2015. Petitioner maintained that since November 2015, his social security benefits were reduced due to the \$104.90 monthly withholding and requested that he be reimbursed for funds withheld as a result of the Department's error. However, unlike the month covered by social security benefits, MSP benefits apply to the month MSP benefits are issued, thus, the period at issue begins December 1, 2015. See BAM 810 (July 2015), pp. 7-8.

The Department testified that after a MSP case is reinstated, a task reminder is sent to an office in Lansing that is responsible for reenrolling clients in the Medicare program and subsequently requests reimbursement. The Department did not present any documentation to establish that it followed the policies outlined in the Part B-Buy In sections of BAM 810, however. 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, pp.7-8.

There was no evidence that the Department contacted the Buy-In unit to process Petitioner's eligibility for QMB benefits or to ensure that he was reenrolled in the Buy-In program. The Department did not establish that it informed the Buy-In unit that Petitioner's MSP QMB case closed in error effective December 1, 2015, or that it made payment to the Buy-In unit/SSA for amounts due for Medicare premiums owed, or that it asked that Petitioner be refunded by SSA in accordance with Department policy.

Furthermore, the Department reviewed the SOLQ on the record and indicated that the State buy-in stop date for Medicare Part B premiums was November 2015, which supports Petitioner's testimony concerning the monthly Medicare premium withholding since November 2015 and the Department's failure to fully correct and process Petitioner's MSP benefits.

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 while the Department acted appropriately by reinstating Petitioner's MA and MSP cases, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's MSP benefits for December 1, 2015, ongoing.

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. Process Petitioner's MSP case for December 1, 2015 ongoing; and
2. Issue supplements to SSA for any MSP benefits Petitioner should have received from December 1, 2015, ongoing.



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]
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Petitioner

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