

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

IN THE MATTER OF:



MAHS Reg. No.: 15-021821
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: February 10, 2016
County: SAGINAW

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 Lansing, Michigan. The Petitioner was represented by herself. The Department was represented by Hearing Facilitator [REDACTED]

ISSUE

Did the Department properly deny Claimant the Medicare Savings Program (MSP) benefits she was approved for?

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 recipient of Social Security Administration benefits and Medicare benefits. Claimant was not, and could not be, eligible for Medical Assistance (MA) benefits under the Healthy Michigan Plan.
2. On June 29, 2015, Claimant was sent a Health Care Coverage Determination Notice (DHS-1606) which stated she was approved for full coverage Medical Assistance (MA) benefits and Medicare Savings Program (MSP) benefits from June 1, 2015 ongoing. It was not apparent at that time that Claimant had incorrectly been listed as approved for Health Michigan Plan coverage.
3. On October 21, 2015, the Department corrected their mistake of approving Claimant for Health Michigan Plan coverage. Claimant was sent a Health Care Coverage Determination Notice (DHS-1606) which stated she was eligible for Medical Assistance (MA) benefits under the G2S category, as a \$ [REDACTED] deductible.

4. The local office Hearing Facilitator contacted the Department's SSI-Bridges-Coord and the Buy In Unit to inquire about Claimant's Medicare Savings Program (MSP) benefits.
5. On November 10, 2015, the Buy In Unit sent an Email to the local office Hearing Facilitator stating "Buy in will be processed effective 12/2015 on our 12/2015 billing. The process may take up to 120 days before Medicare files are updated. Beneficiary is not eligible for buy in 06/2015 -11/2015 per CHAMPS scope and Coverage coding 3G (HMP)."
6. On November 11, 2015, Claimant submitted a hearing request on the basis that she was approved for Medicare Savings Program (MSP) benefits but did not refunded for the benefits.
7. On November 17, 2015, the Buy In Unit sent an Email to the local office Hearing Facilitator stating "Premiums were paid through 05/2015 and reinstated 12/2015. We are unable to process buy in for 06/2015 – 11/2015 as the case is coded HMP which is not buy in eligible."

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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

Bridges Administration Manual (BAM) 600 Hearings is the Department's policy guidance derived from the administrative rules cited above. BAM 600 requires that a request for

hearing must be in writing and signed by the claimant, petitioner, or authorized representative. (Page 2) It also specifies that a hearing request must be submitted within 90 calendar days of the date of a written notice of case action. (Page 6) Department actions for which a hearing is granted are provided on pages 4 & 5 as follows:

Granting a Hearing

All Programs

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For **FAP only**, the current level of benefits or denial of expedited service.

Claimant is an ongoing recipient of Social Security Administration benefits and Medicare benefits. The Department determined Claimant was eligible for Medicare Savings Program (MSP) benefits from June 1, 2015 ongoing and sent Claimant notice of her eligibility. However, those benefits were not provided to Claimant from June 1, 2015 through November 30, 2015. The Department does not dispute Claimant's eligibility for the benefits.

The Department erred by coding Claimant as eligible for Medical Assistance (MA) under the Healthy Michigan Plan. Recipients of Medicare are not eligible for Medical Assistance (MA) coverage under the Healthy Michigan Plan. The Department corrected their mistake and changed Claimant to Medical Assistance (MA) coverage under the correct category of G2S on October 21, 2015. However, the Buy In Unit states they cannot process issuance of the Medicare Savings Program (MSP) benefits which Claimant was actually eligible for. That position is based on the fact that the Department incorrectly listed Claimant as eligible for of the Healthy Michigan Plan from June 1, 2015 through November 30, 2015. It is important to point out that Claimant WAS NOT eligible for Healthy Michigan Plan benefits, she was incorrectly listed as eligible for the benefits.

The Department's BPG Glossary defines supplemental program benefits as "benefits authorized to correct under-issuances in specific situations prescribed in program policy." Receiving none of the Medicare Savings Program (MSP) benefits Claimant is eligible for would certainly be an under-issuance. The Department's action in this case, is a denial of supplemental payments which Claimant is in fact eligible for. Bridges Administration Manual (BAM) 600 Hearings, cited above, provides that MAHS may grant a hearing about denial of supplemental payments.

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

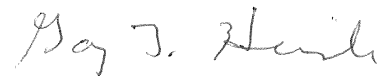
satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant the Medicare Savings Program (MSP) benefits she was approved for.

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. Correct the information in BRIDGES in order to show that Claimant WAS NOT eligible for Healthy Michigan Plan benefits.
2. Process Claimant's Medicare Savings Program (MSP) benefits in order to provide her with ALL the benefits she was determined eligible for.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **2/16/2016**

GH/nr

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:

