

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

IN THE MATTER OF:

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████████████████████

MAHS Reg. No.: 15-019521
Issue No.: 2001
Agency Case No.: ██████████
Hearing Date: January 07, 2016
County: Wayne Pathways
to Potential

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 January 7, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Pathways to Potential Specialist.

ISSUE

Did the Department properly 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 is ██████ years old and is the parent of a ██████ year old child.
2. Petitioner was an ongoing recipient of MA benefits under the Healthy Michigan Plan (HMP) through March 31, 2015. (Exhibit B, p. 5)
3. On April 16, 2015, Petitioner submitted an application for MSP benefits. (Exhibit A)
4. Effective April 1, 2015, Petitioner's MA coverage was transferred to the Group 2 Aged, Blind, and Disabled (G2S) program with a monthly deductible of \$560. (Exhibit B, p. 3)

5. On October 15, 2015, Petitioner requested a hearing disputing the Department's actions with respect to her MA and 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).

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.

In this case, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits. Petitioner raised two concerns at the hearing: (i) the transfer of her MA benefits to a deductible based MA program and subsequent calculation of her MA deductible; and (ii) a lapse in MSP benefits.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for HMP coverage. BEM 105 (October 2014), p. 1; MPM, Healthy Michigan Plan, § 1.1.

At the hearing, the Department could not clearly explain what occurred with respect to Petitioner's MA and MSP benefits. The Department continuously provided conflicting testimony throughout the hearing regarding when Petitioner's MA benefits were changed to a deductible based MA program, the type of MA program for which she was approved, as well as the amount of her MA deductible. The Department's testimony at the hearing was inconsistent with the documents presented for review.

Upon further review of the eligibility summary and program request summary provided, it was established that Petitioner was receiving MA benefits under the HMP and that in April 2015 she applied for MSP benefits in order to have her Medicare premiums paid. (Exhibit A; Exhibit B). Although the Department stated that prior to her hearing request Petitioner was approved for MA under the Group 2 Caretaker (G2C) program with a monthly deductible of \$490, the eligibility summary shows that effective April 1, 2015,

Petitioner's MA coverage was transferred to the Group 2 Aged, Blind, and Disabled (G2S) program with a monthly deductible of \$560. (Exhibit B, p. 3)

HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. MPM, Healthy Michigan Plan, § 1.1.

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.

The Department testified that Petitioner was approved for MSP benefits under the Specified Low-Income Medicare Beneficiaries (SLMB) category, which resulted in her ineligibility for HMP, as she was a Medicare recipient. Although the Department testified that Petitioner's MSP application was approved and that she received SLMB benefits, the Department did not present any documentation such as a Health Care Coverage Determination Notice in support of its testimony. The eligibility summary provided is also unclear, as it does not accurately reflect an approval date for receipt of MSP benefits.

Petitioner testified that she began receiving RSDI benefits in 2013 and that in April 2015, she applied for MSP benefits through the Department in order to have her Medicare Part B premiums paid. Petitioner stated that her Medicare Part B premiums were paid for a few months; however, there was a lapse in her coverage for the period of June 1, 2015, to August 31, 2015. Petitioner stated that her MSP benefits were terminated without notice and that her Medicare Part B premiums were deducted from her monthly RSDI benefits. The Department failed to establish that it properly processed Petitioner's MSP benefits and provided her with the appropriate MSP coverage for the period of June 1, 2015, ongoing.

Furthermore, although the Department is correct in its position that Petitioner is ineligible for HMP benefits based on her receipt of Medicare, Petitioner is entitled to the most beneficial MA category, which is the category which results in eligibility or the least amount of excess income. BEM 105 (October 2014), pp. 2-4. The Department failed to establish that it properly considered Petitioner's MA eligibility based on her status as a parent/caretaker minor child prior to transferring her MA coverage to the G2S program with a monthly deductible of \$560. See BEM 135 (January 2015); BEM 105, pp. 2-4.

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 processed Petitioner's MA and MSP benefits.

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. Redetermine Petitioner's MA eligibility from April 1, 2015, ongoing;
2. Provide Petitioner with MA coverage under the most beneficial MA category from April 1, 2015, ongoing;
3. Issue supplements to Petitioner for the lapse in MSP SLMB benefits for the period of June 1, 2015, through August 31, 2015; and
4. Notify Petitioner in writing of its decision.



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

Date Signed: **1/29/2016**

Date Mailed: **1/29/2016**

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]
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