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GOVERNOR

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

MIKE ZIMMER
DIRECTOR

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Date Mailed: March 4, 2016
MAHS Docket No.: 15-022816
Agency No.: ██████████
Petitioner: ██████████

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 February 8, 2016, from Detroit, Michigan. The Petitioner was represented by ██████████ ██████████ Authorized Hearing Representative (AHR) from ██████████ ██████████. The Department of Health and Human Services (Department) was represented by ██████████ ██████████ Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's application for 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 September 10, 2015, ██████████, as Authorized Representative (AR) submitted an application for MSP benefits on behalf of Petitioner, with a request for retroactive coverage to June 2015. (Exhibit A, pp. 9-27)
2. The Department processed the application as a Healthy Michigan Plan (HMP) MA coverage request, as the aged/disabled screen in Bridges was not coded correctly.

3. On September 14, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that for September 1, 2015, ongoing, she was approved for full coverage MA benefits. (Exhibit A, pp. 7-8)
4. The eligibility summary indicates that Petitioner was approved for MA under the HMP for September 1, 2015, ongoing. (Exhibit B)
5. On October 26, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that for the period of June 1, 2015, to August 31, 2015, she was approved for and eligible for full coverage MA benefits. (Exhibit A, pp. 5-6)
6. The eligibility summary indicates that Petitioner was approved for MA under the Ad-Care program for June 1, 2015, to August 31, 2015. (Exhibit B)
7. The above referenced notices were sent only to Petitioner and not to Petitioner's AR, [REDACTED].
8. On November 25, 2015, [REDACTED] requested a hearing on behalf of Petitioner disputing the Department's failure to properly process the 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.

Additionally, when the Department receives an application for assistance, it is to be registered and processed in accordance with Department policies. The date of application is the date the local office receives the required minimum information on an application or the filing form. BAM 110 (July 2015), pp.4-7, 18-19. Retro MA coverage is available back to the first day of the third calendar month prior to the current or most recent application for MA applicants. The additional requirements for retro MA eligibility are found in BAM 115. BAM 115 (July 2015), pp. 9-14.

Once an application is registered, the Department must certify eligibility results for each program requested within the applicable standard of promptness (SOP). The SOP begins the date the department receives an application/filing form, with minimum required information. The SOP is 90 days for an application involving MA in which disability is an eligibility factor, with this date being extended in 60 day intervals by deferral by the Medical Review Team. BAM 115, pp. 1,12-19,22-23. The Department is to notify clients in writing of positive and negative actions by generating the appropriate notice of case action, which is printed and mailed centrally from the consolidated print center. A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. After processing an initial application, the Department will notify clients of the approval or denial. BAM 115, pp. 1,18;BAM 220 (July 2013), pp. 1-3. An AR is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf. The AR assumes all the responsibilities of the client, and thus, notice of any negative actions taken on a case or application must be sent to the AR. See BAM 105 (July 2015); BAM 110, pp. 8-11.

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, pp. 1-2. 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. SLMB coverage is available for retro MA months and later months. ALMB coverage is available for retro MA months and later months; however, not for a time in a previous calendar year. BEM 165, pp. 3-4.

In this case, [REDACTED] requested a hearing disputing the Department's actions with respect to an application for MSP benefits that it submitted on September 10, 2015, on Petitioner's behalf. The Department testified and presented evidence that the application was registered and processed and that notices were sent to Petitioner advising of the approval. The Department acknowledged however, that the Health Care Coverage Determination Notices were not sent to [REDACTED] as required by policy.

The Department presented a Health Care Coverage Determination Notice dated December 8, 2015, which informs Petitioner that she was approved for Limited Coverage MSP benefits for the period of December 1, 2015, ongoing. (Exhibit A, pp. 3-4). A review of the documentary evidence (Health Care Coverage Determination Notices and Eligibility Summary) submitted by the Department establishes that the Department failed to determine Petitioner's eligibility for MSP benefits for the requested retro period of June 2015 to August 2015 or for the application month of September 2015, ongoing through November 2015. (Exhibit A, pp. 3-8).

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 processed Petitioner's September 10, 2015, application for MA under the MSP.

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 September 10, 2015, MSP application to determine Petitioner's eligibility for MSP benefits under the most beneficial category for the period of June 2015, ongoing;
2. Provide Petitioner with any MSP coverage that she was entitled to receive but did not from June 1, 2015, ongoing; and
3. Notify Petitioner and her AHR of its decision in writing.



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]

Counsel for Complainant

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

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

cc:

[REDACTED]
[REDACTED]
[REDACTED]