



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 5, 2016
MAHS Docket No.: 15-023758
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 March 7, 2016, from Detroit, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) 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 FAP and MSP benefits.
2. Petitioner verbally withdrew her hearing request concerning her FAP benefits.
3. On [REDACTED], an administrative hearing was held with respect to the closure of Petitioner's MSP case effective [REDACTED], at the conclusion of which the Administrative Law Judge (ALJ) found that the Department did not act properly when it closed Petitioner's MSP case. The ALJ ordered the Department to initiate certain actions with respect to Petitioner's MSP benefits. (Exhibit B)

4. In compliance with the Decision and Order, the Department sent Petitioner a Health Care Coverage Determination Notice dated [REDACTED], advising her that she was eligible for full coverage MSP benefits from [REDACTED], ongoing. (Exhibit A, pp. 15-17)
5. On [REDACTED], and again on [REDACTED], the Department sent emails to the Buy In Unit advising that Petitioner's MSP case under the QMB category closed in error and requesting reinstatement of the case. The emails further state that Petitioner is eligible for MSP benefits for the period of July 2015 and August 2015. (Exhibit A, pp. 13-14)
6. On an unverified date, the Social Security Administration (SSA) withheld money from Petitioner's monthly RSDI benefit to pay her Part B Medicare premium.
7. On [REDACTED], Petitioner requested a hearing disputing the Department's actions, specifically indicating that she should be reimbursed for the RSDI benefits deducted from her monthly benefit to pay her Medicare premium.

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).

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-3011.

The hearing was requested to dispute the Department's action taken with respect to Petitioner's FAP benefits. Shortly after commencement of the hearing, Petitioner testified that she now understood and was satisfied with the actions taken by the Department and did not wish to proceed with the hearing. Petitioner stated that the Department corrected the action and that there is no issue left to be resolved for the hearing. Petitioner confirmed that no promises were made in exchange for her withdrawal. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing is, hereby, **DISMISSED**.

MA

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.

In the present case, Petitioner requested a hearing disputing the Department's actions concerning her MSP benefits, specifically a lapse in MSP benefits and a refund/reimbursement that she asserts she is entitled to. At the hearing, the Department stated that on April 23, 2015, it sent Petitioner a Notice advising her that effective June 1, 2015, her MSP case would be closed. An administrative hearing was held regarding that case closure, at the conclusion of which the ALJ ordered the Department to initiate certain actions with respect to Petitioner's MSP case, which included providing Petitioner with written notification of the Department's eligibility decision concerning her MSP case, as well as issuing Petitioner any retroactive MSP benefits that she may be eligible to receive, if any. (Exhibit B). After implementing the Decision and Order, the Department determined that Petitioner was eligible for MSP benefits and on July 14, 2015, sent her a Notice advising her that she was approved for full coverage MSP benefits effective May 1, 2015. (Exhibit A, pp. 15-16).

Petitioner maintained that the SSA withheld money from her RSDI benefits in order to pay for the Medicare Part B premium for the period in which she was approved for MSP benefits through the Department. Petitioner requested reimbursement of premiums withheld. It was established that the months at issue were July 2015 and August 2015, however, the exact amount was in dispute, as the Department stated it was \$104.90 for each month and Petitioner asserted it was greater. Petitioner did not submit any documentation in support of her position that the total withholding was greater than \$104.90 monthly, however.

BAM 810 provides that the Part B Buy-In program is used to pay Part B premiums and the program is an agreement between DCH and SSA. 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), pp.7-

9. The Department testified that after it reinstated Petitioner's MSP case on Bridges, it sent the Buy-In unit an email in July 2015 and again in December 2015 advising that Petitioner's MSP benefits under the QMB category needed to be reinstated because her case had previously closed in error. The emails further indicate that Petitioner was eligible for the MSP benefits for the period at issue and requested that the Buy-In unit respond with an update. The Department testified that as of the hearing date, it still had not received any response from the Buy-In unit, so it was unclear if SSA was notified of the request for reinstatement. A review of the SOLQ shows a Part B Buy-In start date of [REDACTED], with no stop date; however, the Department stated that it was unsure as to whether or not the Department, through the Buy-In unit had made payment to SSA for the period at issue or whether the SSA had reimbursed Petitioner. (Exhibit C).

Although the Department established that it contacted the Buy-In unit to advise of Petitioner's eligibility for MSP benefits, the Department did not establish that it made payment through the Buy-In unit to SSA for amounts due for Medicare premiums owed, or that it asked that Petitioner be refunded by SSA in accordance with Department policy.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's MSP benefits for [REDACTED], ongoing.

DECISION AND ORDER

Accordingly, the hearing request with respect to FAP is **DISMISSED** and Department's MSP 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 [REDACTED], ongoing, and
2. Issue supplements to SSA for any MSP benefits Petitioner should have received from [REDACTED], 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]

Petitioner

[REDACTED]

Via Electronic Mail:

[REDACTED]