



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 15, 2016
MAHS Docket No.: 16-001623
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on March 29, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included her authorized hearing representative [REDACTED] of [REDACTED]. [REDACTED] represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly determined the Petitioner's eligibility for the Medicare Savings Program (MSP)?

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 December 10, 2015, the Department received the Petitioner's application for Medical Assistance (MA) and the Medicare Savings Program (MSP). Exhibit A, p 1.
2. The Petitioner receives a monthly benefit from the Social Security Administration in the gross monthly amount of \$ [REDACTED] Exhibit A, p 7.
3. On December 15, 2015, the Department notified the Petitioner that her Medical Assistance (MA) application had been denied. Exhibit A, p 11.

4. The Department denied Medicare Savings Program (MSP) benefits under the Additional Low Income Medicare Beneficiary (ALMB) category, which is not available for months in a previous calendar year.
5. The Department revised its eligibility determination and approved the Petitioner for ongoing Medical Assistance (MA) and Special Low Income Medicare Beneficiary (SLBM) benefits.
6. On January 31, 2016, the Department received the Petitioner's request for a hearing protesting the denial of Medicare Savings Program (MSP) benefits before December 1, 2016. Exhibit A, p1.

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.

There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLBM), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (October 1, 2015), pp 2-3.

A person who is eligible for one of these categories cannot choose to receive a different Medicare Savings Program category. For example, a person eligible for QMB cannot choose SLMB instead. The Department will not approve ALMB for any month that is in a previous calendar year, even if application was made in the previous calendar year. BEM 165, pp 1-4.

On December 10, 2015, the Department received the Petitioner's application for MA and MSP benefits and requesting benefits three months retroactive to her application. On December 15, 2015, the Department denied the Petitioner's application.

The Department later revised its eligibility determination and approved her for benefits but failed to issue retroactive benefits. The Petitioner was initially denied for MSP benefits under the ALMB category and this category is not available for months in a previous calendar year even if the application was received by the Department in the previous year.

However, under the Department's revised determination of the Petitioner's eligibility for benefits, she is eligible for MSP benefits under the SLMB category. Under BEM 165, SLMB coverage is available for retro MA months and later months.

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 the Department should have reconsidered the Petitioner for SLMB benefits for the retroactive months after revising its determination on her December 10, 2015, application for Medical Assistance (MA). Therefore it did not act in accordance with Department policy when it denied retroactive Medicare Savings Program (MSP) benefits under the Special Low Income Medicare Beneficiary (SLBM) category.

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. Initiate a determination of the Petitioner's eligibility for the Medicare Savings Program (MSP) under the Special Low Income Medicare Beneficiary (SLBM) category as of September 1, 2015.
2. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/las



Kevin Scully
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]

Petitioner

[REDACTED]

Counsel for Petitioner

[REDACTED]