



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: May 2, 2016  
MAHS Docket No.: 16-002593  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 March 30, 2016, from Lansing, Michigan. Petitioner was represented by his authorized hearing representative [REDACTED] of [REDACTED]. The Department was represented by Hearing Facilitator [REDACTED]. Testimony was received from all participants. Department's Exhibit A, pages 1 - 5 was admitted into evidence. Petitioner's Exhibit 1, pages 1 - 10 was admitted into evidence.

### **ISSUE**

Did the Department properly determine Petitioner's Medicare Savings Program (MSP) eligibility on October 28, 2015?

### **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 April 4, 2015, the Social Security Administration determined that Petitioner was eligible for their disability benefits beginning December 2011.
2. On October 15, 2015, Petitioner was sent a letter from the Social Security Administration explaining his benefits. No Medicare insurance premiums were deducted for his benefits from December 2014 to February 2015. Beginning March 2015 \$ [REDACTED] was deducted from his monthly benefit for his Medicare insurance premiums.

3. On October 28, 2015, Petitioner was sent a Health Care Coverage Determination Notice (DHS-1606) which stated he was not eligible for Medicare Savings Program (MSP) benefits for October 2015 but was eligible for them from November 1, 2015 ongoing.
4. On November 23, 2015, a Health Care Coverage Determination Notice (DHS-1606) was sent to Health Claims Advocates which stated Petitioner was not eligible for Medicare Savings Program (MSP) benefits for October 2015.
5. On February 18, 2016, Health Claims Advocates submitted a hearing request regarding Petitioner's Medicare Savings Program (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 the Department processed Petitioner's Medicare Savings Program eligibility in November 2015 and determined that Petitioner was not eligible for the processing month or any previous months. Petitioner argues that Michigan should pay for Petitioner's retroactive Medicare premiums because the Social Security Administration allows it and the information is available to Michigan. Petitioner even submitted portions of the relevant Social Security Administration Program Operations Manual System (POMS).

The issue for resolution in this hearing is whether the Michigan DHHS followed its policy in determining Petitioner's Medicare Savings Program eligibility. The fact that the federal government will allow a state to pay their expenses does not create a requirement for all the states to do so. In fact the POMS section HI 00815.006 The Buy-In Agreement which Petitioner submitted, describe the options available to the states which include making their own Medicaid eligibility determinations using either the SSI standards or even a more restrictive standard that includes the need for a complete State application regardless of SSI status.

The Department's October 28, 2015 determination of Petitioner's Medicare Savings Program eligibility was based on Bridges Eligibility Manual (BEM) 165 Medicare Savings Programs which states the following at page 3:

### **MEDICARE SAVINGS PROGRAMS COVERAGE BEGIN DATES**

#### **QMB Begin Date**

Begin QMB coverage 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.

In this case November was the processing month. The policy cited above states that QMB is not available for the past months or the processing month.

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 acted in accordance with Department policy when it determined Petitioner's Medicare Savings Program (MSP) eligibility on October 28, 2015.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

GH/nr



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Gary Heisler  
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]

**Counsel for Petitioner**

[Redacted]

**Petitioner**

[Redacted]