



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: May 27, 2016
MAHS Docket No.: 16-003222
Agency No.: ██████████
████████████████████

ADMINISTRATIVE LAW JUDGE: Zainab A. 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 April 28, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's application for 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. On or around January 27, 2016, Petitioner submitted an application for MA and MSP benefits.
2. Petitioner is ██████ years old and is enrolled in Medicare Part B and Medicare Part D.
3. On January 29, 2016, the Department sent Petitioner a Health Care Coverage Supplemental Questionnaire (Questionnaire) that he was instructed to complete and return by February 9, 2016. (Exhibit A, pp. 5-7)

4. On February 10, 2016, the Department received Petitioner's completed Questionnaire.
5. On March 7, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising him that he was approved for MSP benefits for the month of March 2016 and that effective April 1, 2016, he was ineligible for MA on the basis that he is not under 21, pregnant, or a caretaker of a minor child in his home, that he is not over age 65, blind or disabled. The Notice does not reference Petitioner's MA or MSP eligibility from the January 2016 application month, ongoing. The Notice further indicates in the comments section that Petitioner failed to submit the Questionnaire by the due date. (Exhibit A, pp. 8-12)
6. Petitioner requested a hearing disputing the Department's actions with respect to his 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.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (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 (January 2016), p. 1; MPM, Healthy Michigan Plan, § 1.1. HMP is a MAGI-related MA category that 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. BEM 137 (January 2016), p. 1

MSP are SSI-related MA categories and 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.

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. BAM 115 (October 2015), pp. 1-14.

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 45 days for an MA application in which disability is not an eligibility factor and 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 (October 2015), 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 (October 2015), pp. 1-3

In this case, the Department testified that it received Petitioner's application for assistance on January 27, 2016, and that it sent him a Questionnaire that he was instructed to complete and return to the Department by February 9, 2016. The Department confirmed receiving Petitioner's Questionnaire on February 10, 2016. The Department testified that Petitioner was approved for Healthy Michigan Plan MA benefits initially, however, there was no evidence presented that the Department notified Petitioner of his MA eligibility prior to March 7, 2016. Additionally, the Department failed to present sufficient evidence in support of its testimony that Petitioner was approved for HMP benefits or that it notified Petitioner of his MA eligibility for the application month, ongoing, as required by Department policy. It further remained unclear how or why Petitioner was approved under the HMP category if he is ■ years old and enrolled in Medicare, as based on the above referenced policies, given his age, Petitioner would be eligible for a SSI-related MA category.

The Department then stated that because Petitioner did not submit the Questionnaire by the February 9, 2016, due date, it sent him a Notice advising of a case closure effective April 1, 2016. A review of the Notice indicates that the Department determined Petitioner was ineligible for MA on the basis that he is not under 21, pregnant, or a caretaker of a minor child in his home, that he is not over age 65, blind or disabled, which is clearly incorrect. Additionally, because the Department received the completed Questionnaire before the Notice was issued, the requirement causing the negative action was met and the Department should have deleted the negative action and not used it as a basis for denial. See BAM 220, pp. 12-14.

Furthermore, there was no evidence presented that the Department appropriately determined Petitioner's eligibility for MA and MSP benefits from the January 27, 2016, application date, ongoing, or that Petitioner was appropriately notified of his eligibility for MA and MSP benefits as the Notice provided by the Department does not reference Petitioner's MA eligibility prior to April 1, 2016, or his MSP eligibility for any month other than March 2016.

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 application.

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 January 27, 2016, application for MA and MSP benefits to determine his eligibility for MA and MSP under the most beneficial categories from the application date, ongoing;

2. Provide Petitioner with MA and MSP coverage under the most beneficial MA and MSP categories from the application date, ongoing, and
3. Notify Petitioner in writing of its decision.



ZB/tlf

Zainab A. 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

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