



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: March 23, 2016
MAHS Docket No.: 16-001147
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 17, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's spouse, testified for Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The first issue is whether Petitioner has a Food Assistance Program (FAP) dispute.

The second issue is whether MDHHS properly issued Medicare Savings Program (MSP) for Petitioner.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of February 2015, Petitioner was an ongoing MSP recipient.
2. Petitioner remained eligible to receive MSP benefits at least through June 2015.
3. On [REDACTED], Petitioner requested a hearing to dispute an alleged MDHHS failure to issue MSP benefits to her for the months from February 2015 through May 2015.

4. Petitioner has no FAP benefit dispute.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

It should be noted Petitioner's hearing request listed an authorized hearing representative (AHR). The AHR did not appear for the hearing. Petitioner agreed to waive her right to representation and the hearing was conducted accordingly.

Petitioner's hearing request also noted that she required oxygen and that she only has 2 hours before it runs out. Petitioner testified she could commit to a one hour hearing before worrying about her oxygen. The hearing was completed within an hour.

Petitioner's hearing request indicated a dispute of FAP eligibility. Petitioner's hearing request neither indicated if the dispute concerned a denial, closure, or amount. The request did not include any details of her FAP dispute. During the hearing, Petitioner was asked why she requested a hearing concerning FAP. Petitioner responded she requested a hearing because income received from the Social Security Administration (SSA) was reduced. Petitioner was asked to clarify how a SSA income reduction affected FAP eligibility; Petitioner could not explain the correlation.

The Michigan Administrative Hearing System may grant a hearing about any of the following (see BAM 600 (October 2015), pp. 4-5):

- denial of an application and/or supplemental payments;
- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service
- restrictions under which benefits or services are provided;
- delay of any action beyond standards of promptness; or
- the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).

Petitioner failed to establish a valid dispute concerning FAP eligibility. Accordingly, Petitioner's hearing request concerning FAP eligibility will be dismissed.

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's MA benefit dispute was not much clearer than her FAP dispute. Petitioner's hearing request indicated "I have 200.00 a month taken out SS... and I was told it was because [my worker was] not doing what needs to be done."

Petitioner's initial testimony alleged MDHHS somehow adversely affected her SSA income. Petitioner testified she thought MDHHS failed to approve payments for her Medicare Part B and D premiums. After much discussion concerning Petitioner's MA eligibility, later Petitioner testimony alleged she intended to request a hearing about her spouse's MA eligibility. Petitioner's attempt to reframe her hearing dispute was not credible. Petitioner's hearing request made no reference to her husband or his SSA income. Petitioner's hearing request will be interpreted to be a request concerning her MA eligibility.

Petitioner testified her dispute concerned the months from February 2015 through May 2015. MDHHS objected to Petitioner's dispute because her hearing request specifically indicated a dispute ongoing "sent [sic]" October 2015. Though MDHHS received no notice of the timeframe Petitioner was disputing, MDHHS was given time during the hearing to research the matter. Thus, MDHHS was not deemed harmed by Petitioner's misleading dates of dispute.

Petitioner could not explain what action MDHHS took which affected her SSA income. It is known that MSP is a MDHHS program which assists client with Medicare premiums. Based on presented evidence, it is presumed that Petitioner intended to dispute her MSP eligibility for the months from February 2015 through May 2015.

MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles. BEM 165 (April 2014), p. 1. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. *Id.* Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if DHHS funding is available. *Id.* Income is the major determiner of category. *Id.*

MDHHS testimony conceded Petitioner was eligible for MSP benefits for the months from March 2015 through June 2015. The concession was consistent with a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-3) dated [REDACTED], which indicated Petitioner was eligible for MSP effective March 2015. MDHHS testimony also indicated Petitioner was an ongoing MSP benefit recipient before March 2015 and that her MSP eligibility was redetermined beginning March 2015. The testimony was indicative that Petitioner was eligible to receive MSP for February 2015.

Generally, a notice approving a client for benefits is persuasive proof that benefits were issued. The present case is one which justifies an exception to the general rule.

MDHHS testimony indicated Petitioner's MSP eligibility was scheduled to expire at the end of February 2015. MDHHS testimony indicated Petitioner submitted paperwork too late for her MSP eligibility to be processed before the end of February 2015. Petitioner's documentation was submitted early enough to justify a continuance of MSP benefits. MDHHS eventually processed Petitioner's redetermination in July 2015. The tardily performed redetermination could have resulted in a MDHHS failure to issue MSP benefits to Petitioner for the months before the redetermination processing month.

Petitioner's SOLQ also implied that MSP benefits may not have been issued. An SOLQ is a document containing various SSA information. MDHHS testimony conceded Petitioner's SOLQ listed a "Part B buy-in start date" of [REDACTED]. If Petitioner received MSP benefits from February 2015 through May 2015, an earlier buy-in start month would be expected.

Given presented evidence, it cannot be stated with certainty that Petitioner did not receive MSP benefits from February 2015 through May 2015. Given presented evidence, it can be stated that MDHHS failed to verify that MSP benefits were issued to Petitioner from February 2015 through May 2015.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to verify issuance of MSP benefits to Petitioner. It is ordered that MDHHS, within 10 days of the date of mailing of this decision, begin to issue MSP benefits to Petitioner for the months from February 2015 through June 2015. The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki
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]

Authorized Hearing Rep.

[REDACTED]