



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: December 14, 2016
MAHS Docket No.: 16-015305
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 three-way telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Medicare Savings Program (MSP) effective [REDACTED]?

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 MSP – Qualified Medicare Beneficiaries (QMB) coverage.
2. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that her MSP benefits were approved effective [REDACTED]; and her Medical Assistance (MA) benefits (deductible case) would close effective [REDACTED], because her deductible has not been met in at least one of the last three months. Exhibit A, pp. 4-5.
3. In the "Comments From Your Specialist About This Notice" of the determination notice dated [REDACTED], the specialist indicated that Petitioner must

complete an updated application so that her MSP-QMB benefits will continue. Exhibit A, p. 4. The comments further stated that the specialist provided an enclosed application and that she needed to return it with proof of assets and income by [REDACTED]. Exhibit A, p. 4.

4. The Department indicated that Petitioner did not return the requested verifications by [REDACTED].
5. On [REDACTED], the Department sent Petitioner a Determination Notice notifying her that her MSP benefits would close effective [REDACTED], because she failed to comply with the verification requirements. Exhibit A, pp. 6-8.
6. On [REDACTED], Petitioner filed a hearing request, protesting her MSP closure. Exhibit A, pp. 2-3.

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.

Preliminary matter

In the present case, Petitioner is not disputing the closure of her MA benefits effective [REDACTED]. Exhibit A, pp. 4-5. Instead, Petitioner is only disputing the closure of her MSP benefits effective [REDACTED]. As such, the undersigned Administrative Law Judge (ALJ) affirms the Department decision to close her MA benefits effective [REDACTED]. See BEM 545 (July 2016), p. 11, (renewal eligibility). The undersigned ALJ will address below whether the MSP closure was proper.

MSP coverage

The Medicare Savings Programs are Supplemental Security Income (SSI)-related MA Categories. BEM 165 (October 2016), p. 1. The three Medicare Savings Programs are Qualified Medicare Beneficiaries (also known as full-coverage QMB); Specified Low-Income

Medicare Beneficiaries (also referred to as limited coverage QMB and SLMB); and Additional Low-Income Medicare Beneficiaries (also known as ALMB or Q1). BEM 165, p. 1.

In this case, Petitioner was an ongoing recipient of MSP-QMB coverage. However, Petitioner's MSP-QMB coverage terminated because the Department argued she failed to comply with the verification requirements. Specifically, in the comments section of the determination notice dated [REDACTED], the Department requested that Petitioner provide by [REDACTED], an updated application, along with her proof of assets and income, in order for her to receive ongoing MSP coverage. Exhibit A, p. 4. But, the Department claimed Petitioner failed to return the requested verifications, which resulted in the closure of her MSP coverage. As a result of the closure, Petitioner filed a hearing request. Exhibit A, pp. 2-3.

The undersigned Administrative Law Judge (ALJ) reviewed the verification request, and concluded that the method in which the Department requested the verifications was improper.

MSP policy states that verification requirements for all eligibility factors are in the appropriate manual items. BEM 165, p. 9. The appropriate manual items for verification requirements would be BAM 130 policy, Verification and Collateral Contacts.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (July 2016), p. 1. The Department uses documents, collateral contacts or home calls to verify information. BAM 130, p. 1. The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. BAM 130, p. 8. The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8.

It should be noted that because the Department requested an updated application from Petitioner, it might have been conducting a redetermination of Petitioner's eligibility for MSP benefits. Nevertheless, there is separate policy guidance for redeterminations, which requires a different form to be sent to Petitioner. See BAM 210 (July 2016), pp. 1-23.

Based on the foregoing information and evidence, the Department improperly closed Petitioner's MSP-QMB coverage effective [REDACTED], in accordance with Department policy. As stated above, MSP policy directs the Department to use the appropriate manual items when requesting verification, which would be BAM 130 policy. See BEM 165, p. 9. BAM 130 further states that the Department is to use a DHS-3503, Verification Checklist (VCL), to request verification, not a determination notice. BAM 130, p. 3. It was not proper by the Department to use of the determination notice in lieu of a VCL to request verification. Instead, the Department should have sent Petitioner a

VCL requesting proof of assets or income. See BAM 130, p. 3. Or, if this was a redetermination, then the Department should have sent Petitioner a Redetermination (DHS-1010), rather than application. See BAM 210, p. 7. In any event, the Department's use of the determination notice as a verification request was improper in accordance with Department policy. BAM 130, pp. 1-8; BAM 210, p. 7; and BEM 165, p. 9. Because the Department did not send Petitioner a proper verification request in accordance with Department policy, it improperly closed her MSP-QMB coverage effective [REDACTED].

DECISION AND ORDER

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 (i) the Department acted in accordance with Department policy when it closed Petitioner's MA benefits (deductible case) effective [REDACTED]; and (ii) the Department did not act in accordance with Department policy when it closed Petitioner's MSP benefits effective [REDACTED].

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to MA closure (deductible case) and **REVERSED IN PART** with respect to MSP closure.

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. Redetermine Petitioner's MSP eligibility effective [REDACTED];
2. Issue supplements to Petitioner for any MSP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
3. Notify Petitioner of its decision.

EJF/jaf



Eric J. Feldman
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 email

[REDACTED]