



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: January 26, 2017
MAHS Docket No.: 16-014331
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, an in-person hearing was held on January 11, 2017, from Pontiac, Michigan. Petitioner appeared and was represented by an authorized hearing representative (AHR), [REDACTED]. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED] specialist.

ISSUE

The issue is whether MDHHS properly failed to process Petitioner's Qualified Medicare Beneficiaries (QMB) eligibility.

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 June 2014, Petitioner was approved for Medicaid through the Aged-Disabled Care (AD-Care) MA category.
2. As of [REDACTED] Petitioner was eligible for Medicare Part A.
3. MDHHS failed to process Petitioner's QMB eligibility from September 2014.
4. On [REDACTED] MDHHS processed Petitioner's QMB eligibility, effective June 2016.

5. On [REDACTED], Petitioner's AHR requested a hearing to dispute the failure by MDHHS to process Petitioner's QMB eligibility from September 2014.

CONCLUSIONS OF LAW

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 requested a hearing to dispute an alleged failure by MDHHS to process Petitioner's MSP eligibility from September 2014. MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, p. 8) dated [REDACTED]. The notice verified "(Full Coverage) (Medicare Savings Program)" for Petitioner beginning June 2016. The notice did not address Petitioner's eligibility since September 2014.

MDHHS contended Petitioner was not entitled to an MSP determination from September 2014 because Petitioner did not apply for MSP benefits at that time. Petitioner's AHR contended an application was unnecessary.

Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (April 2014), p. 1. Person's receiving MA under the following categories and entitled to Medicare Part A are considered QMB eligible without a separate QMB determination.

- BEM 110, Low-Income Families and FIP recipients.
- BEM 111, Transitional MA.
- BEM 113, Special N/Support.
- BEM 150, SSI Recipients.
- BEM 154, Special Disabled Children.
- BEM 155, 503 Individuals.
- BEM 156, COBRA Widow(er)s.
- BEM 158, DAC.
- BEM 163, AD-Care.

BEM 165 (April 2014), p. 3

Not needing "a separate QMB determination" is highly indicative of automatic QMB eligibility for clients receiving Medicare Part A and Medicaid under one of the above-listed MA categories. Automatic eligibility would not require an application. MDHHS did not present any alternative interpretation of this policy or other policy mandating an

application for QMB before an issue of benefits can occur. It is found MDHHS policy requires automatic QMB eligibility for certain clients. It must only be determined if Petitioner was a client entitled to automatic QMB eligibility.

MDHHS presented Petitioner's Eligibility Summary (Exhibit 1, pp. 12-25). The documents listed Petitioner received Medicaid through AD-Care from June 2014 through July 2016 (see Exhibit 1, p. 12 and 16). The documents were consistent with Petitioner's Medicaid Eligibility documents (Exhibit 1, pp. 26-38) which listed "Full Coverage Medicaid" issuances based on Petitioner's disability. It is found Petitioner had AD-Care from at least June 2014 through July 2016.

Petitioner presented an SSA award letter (Exhibit A, p. 13) dated [REDACTED]. The letter stated Petitioner's Medicare Part A eligibility would start September 2014.

Once Petitioner became eligible to receive Medicare Part A, MDHHS should have issued QMB benefits to Petitioner, based on Petitioner's eligibility for AD-Care. The MDHHS failure to issue QMB benefits was erroneous.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to issue QMB benefits for Petitioner. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Issue QMB benefits to Petitioner from September 2014, subject to the finding that Petitioner was entitled to automatic QMB eligibility; and
- (2) Supplement Petitioner for any Medicare premiums previously not reimbursed.

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]

[REDACTED]

Counsel for Petitioner

[REDACTED]

Petitioner

[REDACTED]