



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 24, 2017
MAHS Docket No.: 17-004488
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 telephone hearing was held on [REDACTED] from Detroit, Michigan. Petitioner was present for the hearing and his witness/mother, [REDACTED], was also present at the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUES

1. Did the Department properly close Petitioner's Medicare Savings Program (MSP) – Qualified Medicare Beneficiaries (QMB) coverage effective [REDACTED]?
2. Did the Department properly close Petitioner's Medical Assistance (MA) benefits 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-QMB coverage. [Exhibit A, p. 16.]
2. Petitioner was an ongoing recipient of MA coverage. [Exhibit A, p. 17.]
3. Petitioner began receiving Retirement, Survivors and Disability Insurance (RSDI) benefits starting in [REDACTED]. [Exhibit A, pp. 18-20.]

4. Petitioner received a one time Supplemental Security Income (SSI) payment in [REDACTED]. [Exhibit A, pp. 18-20.]
5. As a result of Petitioner's SSI benefits ending in [REDACTED], his SSI case was transferred to the SSI Termination (SSIT) type of assistance effective [REDACTED] [REDACTED] (hereinafter referred to as "MA-SSIT coverage"). [Exhibit A, pp. 17-20.]
6. Petitioner received MA – SSIT coverage until [REDACTED]. [Exhibit A, p. 17.]
7. On [REDACTED], the Department sent Petitioner a Redetermination (DHS-1010) to redetermine his eligibility for MSP benefits and it was due back by [REDACTED]. [Exhibit A, pp. 5-12.]
8. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that his MA coverage would close effective [REDACTED]. [Exhibit A, pp. 13-15.]
9. Petitioner failed to submit the Redetermination by the due date of [REDACTED] [REDACTED] or by the end of the benefit period ([REDACTED]).
10. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination notifying him that his MSP coverage would close effective [REDACTED] [REDACTED] because he failed to return his Redetermination. [Exhibit A, pp. 2-4.]
11. On [REDACTED], Petitioner submitted his Redetermination, but after the due date. [Exhibit A, pp. 5-12.]
12. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, p. 1.]

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

Based on Petitioner's hearing request and testimony, he is disputing the following: (i) the closure of his MSP benefits effective [REDACTED]; and (ii) the closure of his MA benefits effective [REDACTED]. The undersigned Administrative Law Judge (ALJ) will address each issue separately below:

MSP benefits

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (January 2017), p. 1. The redetermination renewal process includes thorough review of all eligibility factors. BAM 210, p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1.

For Medicaid, a redetermination is an eligibility review based on a reported change. BAM 210, p. 1. A renewal is the full review of eligibility factors completed annually. BAM 210, p. 1.

A complete redetermination/renewal is required at least every 12 months. BAM 210, p. 2.

For MA cases, benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. BAM 210, p. 3. Also, the renewal month is 12 months from the date the most recent complete application was submitted. BAM 210, p. 3.

The Department does not redetermine the following MA coverages:

- Special N/Support; see BEM 113.
- Title IV-E recipients; see BEM 117.
- Special needs adoption assistance recipients; see BEM 117.
- Department wards; see BEM 117.
- Supplemental Security Income (SSI) recipients; see BEM 150.

BAM 210, p. 4. Note, a review must be completed before closing an individual in one of these categories if the closure is for any reason other than total ineligibility for any MA (such as moved out of state or death). BAM 210, p. 4. The review must consider eligibility in all other MA categories. BAM 210, p. 4.

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 11. Exception, for FIP, SDA and FAP only, if any section of the redetermination /review packet has not been completed but there is a signature, consider the redetermination/review complete. BAM 210, p. 12. Complete any missing sections during the interview.

BAM 210, p. 12. When a complete packet is received, record the receipt in Bridges as soon as administratively possible. BAM 210, p. 12. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p. 12.

For MA cases, benefits are not automatically terminated for failure to record receipt of the renewal packet. BAM 210, p. 12.

In the present case, the Department sent Petitioner a Redetermination (DHS-1010) to redetermine his eligibility for MSP benefits; and it was due back by [REDACTED]; however, policy allows him to submit the redetermination by the end of the benefit period, which was [REDACTED]. [Exhibit A, pp. 5-12.] The evidence established, though, that Petitioner failed to submit the Redetermination by the due date of [REDACTED], or by the end of the benefit period ([REDACTED]). Instead, Petitioner submitted the Redetermination after the due date on [REDACTED]. [Exhibit A, pp. 5-12.] Petitioner indicated the Redetermination was submitted late because his mother did have cancer at the time and other reasons. However, policy does state that the Redetermination must be submitted by the end of the benefit period, which he failed to do so. BAM 210, p. 3. As such, because Petitioner failed to submit his Redetermination by the end of the benefit period, the Department acted in accordance with Department policy when it closed his MSP-QMB benefits effective [REDACTED]. BAM 210, pp. 1-12.

MA benefits

Supplemental Security Income (SSI) is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. BEM 150 (October 2015), p. 1. The Social Security Administration (SSA) determines SSI eligibility. BEM 150, p. 1. In Michigan, the Department supplements federal SSI payments based on the client's living arrangement. BEM 150, p. 1. Thus, in this item, BEM 150, SSI recipient means a Michigan resident who receives the basic federal payment, the state supplement, or both. BEM 150, p. 1. To be automatically eligible for Medicaid (MA) an SSI recipient must both: be a Michigan resident and cooperate with third-party resource liability requirements. BEM 150, p. 1. The Department administers MA for SSI recipients, including a continued MA eligibility determination when SSI benefits end. BEM 150, p. 1.

In this case, Petitioner began receiving RSDI coverage since [REDACTED]; but he also received a one-time SSI payment in [REDACTED]. [Exhibit A, pp. 18-20.] As a result of Petitioner's SSI benefits ending in [REDACTED], his SSI case was transferred to MA-SSIT coverage effective [REDACTED]. [Exhibit A, pp. 17-20.] Petitioner received MA-SSIT coverage until [REDACTED]. [Exhibit A, p. 17.] The Department closed Petitioner's MA-SSIT coverage effective [REDACTED]; and notice of the closure was sent to him on [REDACTED]. [Exhibit A, pp. 13-16.] However, an issue arose during the hearing with the closure because the Department failed to conduct a proper review of his case to determine if he is eligible for other MA categories effective [REDACTED].

When SSI benefits stop, central office evaluates the reason based on SSA's negative action code, then does one of the following:

- SSI Closure. MA-SSI is closed in Bridges if SSI stopped for a reason that prevents continued MA eligibility (for example, death, moved out of state). Bridges sends the recipient a DHS-1605.
- Transfer to SSIT. SSI cases not closed due to the policy above are transferred to the SSI Termination (SSIT) Type of Assistance. A redetermination date is set for the second month after transfer to allow for an ex parte review; see glossary.

BEM 150, p. 6. It should be noted that Petitioner's case involved the transfer to MA-SSIT coverage.

Policy additionally states local office responsibilities for cases transferred to MA-SSIT.

Based on current circumstances, determine whether the client qualifies for MA under:

- MA While Appealing Disability Termination in this item, or
- Any other MA category; see BEM 105.

BEM 150, pp. 6-7. Note: An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. BEM 150, p. 7. The review includes consideration of all MA categories; see BAM 115 and 220. BEM 150, p. 7.

When an MA-SSIT Eligibility Determination Group (EDG) is set in the Department's system (Bridges), the specialist will receive the following Task/Reminder (T/R): Send DCH-1426 to client as Medicaid Transitional SSI case newly Certified. BEM 150, p. 7. The T/R has a 15-day due date. BEM 150, p. 7. On or before the Task/Reminder due date, the specialist should mail a redetermination packet to the client and authorized representative. BEM 150, p. 7. The redetermination packet should include the DCH-1426 Application for Health Coverage & Help Paying Cost and the Word version of the DHS-3503 Verification Checklist. BEM 150, p. 7. The specialist should mark the verifications required for Medicaid on the DHS-3503. BEM 150, p. 7.

Process the application through Initiate Interview, Intake, in Bridges. BEM 150, p. 7. Generate the appropriate disability forms. BEM 150, p. 7. Do not require an updated or new application form when you know eligibility exists under MA While Appealing Disability Termination in this item. BEM 150, p. 7.

Complete the review during the second month of the MA-SSIT. BEM 150, p. 7. Document all factors in the case record, including disability and blindness. BEM 150, p. 7.

If continued MA eligibility does not exist, use standard negative action procedures. BEM 150, p. 7.

Based on the foregoing information and evidence, the Department improperly closed Petitioner's MA benefits effective [REDACTED], in accordance with Department policy. BEM 150 provides specific policy guidance on how local offices handle cases that are transferred to MA-SSIT, including determining if Petitioner qualifies for any other MA categories. See BEM 150, pp. 6-7. However, the Department failed to satisfy its burden of showing that it followed this process. Petitioner's SSI case was transferred to MA-SSIT coverage effective [REDACTED]. [Exhibit A, p. 17] Once the case was transferred, policy states a redetermination date is set for the second month after transfer to allow for an ex parte review. See BEM 150, p. 6. Furthermore, the local office should send Petitioner a redetermination packet and should include an application for health coverage and other documents. See BEM 150, p. 7. The Department failed to present any evidence showing that it followed the above process in determining Petitioner's continued eligibility for other MA categories effective [REDACTED].

Accordingly, the undersigned finds that the Department failed to satisfy its burden of showing that properly closed Petitioner's MA benefits and the Department is ordered to redetermine his eligibility for other MA categories effective [REDACTED] [REDACTED], in accordance with Department policy. See BEM 150, pp. 6-7; BAM 115 (January 2017), pp. 8-9; BAM 210, p. 2; and BAM 220 (January 2017), pp. 17-19.

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 properly closed Petitioner's MSP-QMB benefits effective [REDACTED]; and (ii) the Department failed to satisfy its burden of showing that it properly closed his MA benefits effective [REDACTED].

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to MSP benefits effective [REDACTED], and **REVERSED IN PART** with respect to the MA benefits effective [REDACTED].

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 MA eligibility effective [REDACTED], in accordance with Department policy (see BEM 150 for local office responsibilities for cases transferred to MA-SSIT);

2. Issue supplements to Petitioner for any MA benefits he 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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]

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