



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: June 29, 2017  
MAHS Docket No.: 17-004886  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

### **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. After due notice, telephone hearing was held on June 1, 2017, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by [REDACTED]

### **ISSUE**

Did the Petitioner request a hearing containing an issue that falls under the jurisdiction of the Michigan Administrative Hearing System (MAHS)?

### **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 August 9, 2016, the Department notified Petitioner that she was no longer for Medical Assistance (MA) and the Medicare Savings Program (MSP) effective September 1, 2016. Exhibit A, pp 6-9.
2. On August 16, 2016, the Department reinstated Medical Assistance (MA) and Medicare Savings Program (MSP) benefits effective September 1, 2016. Exhibit A, pp 10-12.
3. On September 2, 2016, the Department notified Petitioner that she was no longer eligible for Medicare Savings Program (MSP) benefits effective October 1, 2016. Exhibit A, pp 13-15.
4. On October 27, 2016, the Department reinstated Petitioner's Medicare Savings Program (MSP) benefits effective October 1, 2016. Exhibit A, pp 16-18.

5. On February 7, 2017, the Department notified Petitioner that she would be transferred from the Special Low Income Medicare Beneficiary (SLMB) of MSP to the Qualified Medicare Beneficiary (QMB) category of MSP effective March 1, 2017.
6. On March 10, 2017, Petitioner reported medical expenses to the Department and the Department determined that Petitioner had closed her Medicare benefits after receiving notice of MSP closure and that the Department would not pay her Medicare Part B premium payment. Exhibit A, p 26.
7. Petitioner did not have Medicare coverage from November of 2016, through January of 2017. Exhibit A, pp 26-29.
8. On April 7, 2017, the Department received Petitioner's request for a hearing. Exhibit A, pp 30-31.

### **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.

There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (October 1, 2016), pp 2-3.

On April 7, 2017, the Department received Petitioner's request for a hearing. On Petitioner's request for a hearing she disputes benefits denied in June and July and the closure of benefits in October.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- 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.
- For FAP only, the current level of benefits or denial of expedited service.  
Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2017), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2017), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

Petitioner's request for a hearing does not identify a loss of benefits where the date of the written notice of the case action was sent in the 90 days prior to her request for a hearing being received by the Department. In other words, Petitioner's April 7, 2017, request for a hearing was submitted too late for her to receive a hearing concerning the closure of benefits she is protesting on the request form.

Petitioner has been eligible for MSP benefits since March 1, 2017, and any Medicare Part B premiums that had not been paid as of April 7, 2017, will be addressed by the Department's buy-in unit. There has been no loss of benefits since March 1, 2017.

The closure of Medicare benefits from November through January of 2017 is not an issue that can be addressed by Michigan Administrative Hearing System (MAHS). Medicare is a federal program and does not fall under the jurisdiction of the Department or MAHS.

MSP is a state program and denial of those benefits does fall under the jurisdiction of MAHS.

However, the Department reinstated MSP benefits for September and October. Petitioner did not have Medicare from November through January, therefore, there were no premiums for the Department to pay on Petitioner's behalf. Petitioner was approved for MSP benefits effective March 1, 2017, but the Department is unable to issue MSP benefits for February of 2017 because the Department's policy is to begin benefits the month after the processing month.

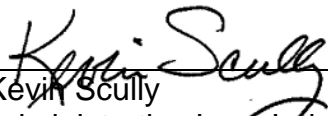
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Medicare Savings Program (MSP) benefits under the Qualified Medicare Beneficiary (QMB) category in February of 2017, because that is considered the processing month under BEM 165.

Petitioner's request for a hearing concerning Medical Assistance (MA) and Medicare Savings Program (MSP) benefits effective prior to February 1, 2017, is dismissed because her hearing request is considered untimely under BAM 600.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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Kevin Scully  
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]