



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: October 2, 2017
MAHS Docket No.: 17-009678
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a 3-way telephone hearing was held on September 14, 2017, from [REDACTED], Michigan. Petitioner was represented by Authorized Hearing Representative, [REDACTED]. Petitioner submitted nine exhibits which were admitted into evidence.

The Department of Health and Human Services (Department) was represented by Hearing Facilitator, [REDACTED]. [REDACTED] testified on behalf of the Department. The Department submitted 30 exhibits which were admitted into evidence. The record was closed on [REDACTED], on receipt of Petitioner's exhibits.

ISSUE

Did the Department properly determine that Petitioner's Medicare Savings Program (MSP) coverage began on [REDACTED]?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], Petitioner was enrolled in Medicare Part A. [Petitioner Exh. A4].
2. Beginning [REDACTED], Petitioner had full Medicaid coverage. [Dept. Exh. 23-24].

3. On [REDACTED], the Department issued a Health Care Coverage Determination Notice to Petitioner informing her that she was eligible for full coverage under the Medicare Savings Program beginning [REDACTED], ongoing. [Dept. Exh. 14-16].
4. On [REDACTED], Petitioner submitted a Request for Hearing. [Dept. Exh. 18-19].

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).

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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.

Medicare Savings Programs are SSI-related MA categories. They are neither Group 1 nor Group 2. BEM 165, p 1 (1/1/2015). Additional Low-Income Medicare Beneficiaries (ALMB) is one of three categories making up the Medicare Savings Programs. BEM 165, p 1. If a client's net income is over 120% of the poverty level, but not over 135% of the poverty level, the client is eligible for ALMB. BEM 165, p 1. All eligibility factors must be met in the calendar month being tested. BEM 165, p 1. ALMB pays Medicare Part B premiums provided funding is available. BEM 165, p 2.

Because it is advantageous for the state to enroll every person who is entitled to MSP into the program, a determination of eligibility should be made even if a person shows only entitlement for Medicare part A. BEM 165, p 7.

In this case, the Department acknowledged during the hearing that Petitioner was eligible for Medicare Part B as of [REDACTED], and that she met the requirements of the Medicare Savings Program and had also been eligible for the Medicare Savings Program since [REDACTED], due to her receipt of Retirement, Survivors, Disability Income (RSDI) benefits.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it determined Petitioner was only eligible for the Medicare Savings Program beginning [REDACTED].

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

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 Medicare Part B and Medicare Savings Program (MSP) eligibility beginning [REDACTED].
2. Issue Petitioner any retroactive Medicare Part B or MSP benefits she may otherwise be eligible to receive.
3. Issue a Healthcare Determination Notice indicating the Department's eligibility determinations regarding the Medicare Part B plan and the Medicare Savings Program.
4. Request a HELP DESK ticket to assist with the eligibility determinations for the Medicare Part B plan and Medicare Savings Program beginning [REDACTED], when entitlement for Medicare Part A was established.

VLA/bb



Vicki Armstrong
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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]