



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

Date Mailed: November 16, 2017
MAHS Docket No.: 17-011280
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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, an in-person hearing was held on October 26, 2017, from Redford, Michigan. The Petitioner appeared for the hearing with her Authorized Hearing Representative (AHR) [REDACTED]. [REDACTED], Advocacy Director with the [REDACTED] was present as a witness on Petitioner's behalf. The Department of Health and Human Services (Department) was represented by Andrea Motley, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Medicare Savings Program (MSP) case?

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 previously an ongoing recipient of MSP benefits under the Qualified Medicare Beneficiaries (QMB) category and Medical Assistance (MA) benefits under the Disabled Adult Child (DAC) category.
2. Petitioner's RSDI Claim Account Number suffix contains the letter C1. (Exhibit A, pp. 8-9)
3. Petitioner was entitled to Medicare Part A with an effective date of March 1, 1997 and Medicare Part B with an effective date of July 1, 2003. (Exhibit A, p. 5)

4. On August 14, 2017 the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective September 1, 2017 her MSP case would be closing on the basis that she does not meet basic criteria for MSP benefits and because she is not enrolled in Medicare Part A, thus she is ineligible for the MSP. (Exhibit A, pp. 10-11)
5. On August 21, 2017 Petitioner requested a hearing disputing the Department's actions regarding the closure of her MSP case effective September 1, 2017. Petitioner specifically indicated that because she is considered a DAC, she is eligible for QMB. Petitioner submitted a copy of her Medicare Health Insurance Card with the request for hearing. (Exhibit A, pp. 3-5)
6. The Department conceded that the closure of Petitioner's MSP case under the QMB category effective September 1, 2017 was improper, as she is a DAC and eligible for QMB. After receiving Petitioner's hearing request, it reinstated her QMB coverage for the time period at issue, September 1, 2017, ongoing.
7. On September 12, 2017 the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective June 1, 2017, ongoing, she was approved for full coverage MSP benefits. (Exhibit B)
8. The Eligibility Summary presented shows that Petitioner was approved for MA under the DAC category and MSP benefits under the QMB category for the September 1, 2017, period at issue, ongoing. (Exhibit C)
9. On September 15, 2017, the Social Security Administration (SSA) sent Petitioner a letter advising her that the State of Michigan will no longer be paying her Medicare Part B premiums after August 2017 and that starting September 2017, she would be responsible for her premiums. The SSA began deducting Medicare premiums from Petitioner's monthly social security benefits with her September 2017 benefit month. (Exhibit 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.

DAC MA is an SSI-related Group 1 MA category and is available to a person receiving DAC (also called Childhood Disability Beneficiaries' or CDBs') RSDI benefits under section 202(d) of the Social Security Act if she meets all of the following conditions:

- is age 18 or older; and
- received SSI; and
- ceased to be eligible for SSI on or after July 1, 1987, because she became entitled to DAC RSDI benefits under section 202(d) of the Act or an increase in such RSDI benefits; and
- is currently receiving DAC RSDI benefits under section 202(d) of the Act (based on having a disability or blindness that began before age 22); and
- would be eligible for SSI without such RSDI benefits.

An individual may be receiving DAC RSDI benefits if one of the following descriptions applies:

- She has been identified as a DAC by central office or an SSI letter and the social security claim number suffix contains the letter C, which may be followed by another letter or number (CA, CB, C1, etc.).
- She is more than 19 years 2 months old and her social security claim number suffix contains the letter C, which may be followed by another letter or number (CA, CB, C1, etc.).
- She is age 18 or older, **not** a full-time student in elementary or secondary school and her social security claim number contains the letter C, which may be followed by another letter or number (CA, CB, C1, etc.).

BEM 158 (October 2014), pp. 1-3. DAC MA recipients eligible for Medicare are covered by the Buy-In program (see BAM 810) and are considered eligible for QMB (see BEM 165). BEM 158, p. 1.

Medicare has three parts: Part A (hospital insurance (HI)), Part B (supplementary medical insurance (SMI)), and Part D (prescription drug coverage). BAM 810 (October 2016), p. 1. A person is eligible for Part B if she (i) is eligible for Part A, or (ii) is at least age 65, lives in the U.S., and is either a U.S. citizen or an alien lawfully admitted for permanent residence who has lived in the U.S. five consecutive years. BAM 810, p. 3. Generally, a person who is eligible for Part B and is enrolled in Part A is automatically enrolled in Part B, but he may refuse Part B. BAM 810, p. 4. A person who is not automatically enrolled in Part B must apply for enrollment at the local SSA office during his "initial enrollment period" or a "general enrollment period," but this general

enrollment period is waived for persons eligible for MSP and covered by the Part B Buy-In Program. BAM 810, p. 4.

MSP is a State-administered program in which the State pays an income-eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (October 2016), pp 1-2; BAM 810, pp. 1,6. Medicare Savings Programs are SSI-related MA categories. The QMB category is a full coverage MSP that pays: Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them); Medicare coinsurances; and Medicare deductibles. BEM 165, pp. 1-2. Persons receiving MA under the DAC category and entitled to Medicare Part A are considered QMB eligible without a separate QMB determination. BEM 165, p. 3. For purposes of the QMB program, entitled to Medicare Part A means the person either (i) receives Medicare Part A with no premium being charged (as shown on the State Online Query (SOLQ), or (ii) refused premium-free Medicare Part A (indicated by a claim number suffix of M1), or (iii) is eligible for, or receiving, Premium HI (hospital insurance) (indicated by claim number suffix "M"). BEM 165, p. 5.

In this case, Petitioner requested a hearing disputing the Department's closure of her MSP case under the QMB category effective September 1, 2017 as indicated in the August 14, 2017 Health Care Coverage Determination Notice. At the hearing, the Department testified that the case closure was improper, as Petitioner is enrolled in Medicare Part A and receiving MA benefits under the DAC category, thus she is automatically eligible for MSP coverage under the QMB category.

The Department stated that the case closure was likely due to a discrepancy in the Medicare claim numbers associated with Petitioner's case, as there were two numbers on file. The Department testified that after receiving the request for hearing, it reinstated Petitioner's MA case under the DAC category and her MSP coverage under the QMB category for the September 1, 2017 period at issue, ongoing. The Department presented the September 12, 2017 Health Care Coverage Determination Notice and an eligibility summary in support of its testimony that Petitioner's cases were reinstated and she was approved for ongoing QMB coverage (Exhibit B; Exhibit C). Although the Department established that it reinstated Petitioner's MSP case under the QMB category, there was no evidence presented that the Department processed the Medicare Part B Buy-In in order for Petitioner's Medicare Part B premiums to be paid. At the hearing, Petitioner testified and presented documentation indicating that the SSA had begun withholding her Medicare Part B premiums in September 2017 and, as of the hearing date, continued to do so. (Exhibit 1).

The Part B Buy-In program is used to pay Medicare Part B premiums. The program is an agreement between DCH and SSA. The program covers persons who are eligible for both Medicare Part B and are recipients of MA under the DAC category. Department policy provides that, through the Part B Buy-In program, which administers MSP cases, Medicaid pays the Medicare premiums **and** enrolls persons eligible for, but not enrolled in, Medicare Part B if they are enrolled in Medicare Part A or have refused Medicare Part B enrollment. BAM 810, pp. 7-8. Generally, the Buy-In program operates

automatically based on computer tapes from SSA and the Department's central office. BAM 810, p. 8. For individuals who are both Medicaid and Medicare Part B eligible, the Part B buy-in effective date is the earliest date the client is both Medicaid and Part B eligible. BAM 810, p. 8. The buy-in is processed at the end of the calendar month that a case is opened in Bridges and it takes SSA about 120 days after that date in order to adjust the RSDI check and issue a refund for premiums paid by the client while the buy-in was being processed. BAM 810, pp.7-9.

It was undisputed that Petitioner has been eligible for Medicare Part A with no premium and that she has been approved for MA under the DAC category with no lapse in her coverage or eligibility. As such, she is eligible for QMB coverage and her Medicare Part B premiums to be paid, also with no lapse in coverage. Because the SOLQ presented by the Department does not reflect a Part B Buy-In stop date and this date was not verified by the Department during the hearing, the Department will be required to process the buy-in so that there is no lapse in Petitioner's receipt or refund of premiums she has paid as a result of the Department's initial improper closure of her MSP case and buy-in stop date.

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 did not act in accordance with Department policy when it processed Petitioner's MSP case.

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. Process Petitioner's Medicare Buy-In and enroll her in the Medicare Part B Buy-In program effective the buy-in stop date, ongoing, in accordance with Department policy; and

2. Issue supplements to SSA for any MSP benefits Petitioner should have received but did not from the buy-in stop date, ongoing so that she receives a refund for all Medicare Part B premiums she paid from the buy-in stop date, ongoing.



ZB/tlf

Zainab A. Baydoun
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:

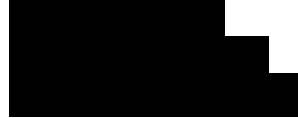
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Wayne-15-Hearings
BSC4 Hearing Decisions
EQAD
M. Best
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Petitioner

-Via First-Class Mail:



Authorized Hearing Rep.

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