



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 7, 2017
MAHS Docket No.: 17-011588
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 November 7, 2017, from Ypsilanti, Michigan. The Petitioner appeared for the hearing with her Attorney, [REDACTED]. The Department of Health and Human Services (Department) was represented by Timothy Wortz, Assistance Payments Supervisor.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP), Medical Assistance (MA) and Medicare Savings Program (MSP) cases?

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 FAP, MA and MSP benefits.
2. In connection with a redetermination, Petitioner's eligibility to receive program benefits was reviewed.
3. On June 5, 2017 the Department sent Petitioner a redetermination that she was instructed to complete and return to the Department by July 5, 2017. (Exhibit A, pp. 9-16)

4. On July 18, 2017 the Department sent Petitioner a Verification Checklist (VCL) instructing her to return proof of her Retirement Survivors and Disability Insurance (RSDI) and her bank checking account by July 28, 2017. (Exhibit A, pp. 21-24)
5. On August 10, 2017 the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective September 1, 2017 her MA and MSP cases would be closed on the basis that she failed to return verification of her bank account. (Exhibit A, pp. 31-34)
6. The Social Security Administration (SSA) began withholding Medicare Premiums from Petitioner's monthly RSDI benefits effective September 2017.
7. On August 10, 2017 the Department sent Petitioner a Benefit Notice advising her that effective August 1, 2017 her FAP case closed on the basis that she failed to return verification of her bank checking account. (Exhibit A, pp. 35-36)
8. On August 29, 2017 Petitioner requested a hearing disputing the Department's actions with respect to her FAP, MA and MSP cases, asserting that she provided the Department with all requested verifications. (Exhibit A, pp. 3-4)
9. The Department conceded that the closure of Petitioner's FAP, MA and MSP cases was done in error, as it had timely received the requested verifications.
10. The Department reinstated Petitioner's FAP case effective August 1, 2017 and provided her with FAP benefits for the months of August 2017 (\$31) and September 2017 (\$31), which Petitioner confirmed receiving. (Exhibit A, pp. 39-41)
11. On September 7, 2017 the Department sent Petitioner a Benefit Notice informing her that she was approved for FAP benefits in the amount of \$31 effective August 1, 2017 and that her MA and MSP cases were reinstated, as she continued to be eligible for MA and MSP benefits. (Exhibit A, pp. 37-38)
12. The Department reinstated Petitioner's MA and MSP cases effective September 1, 2017 and approved her for ongoing coverage. (Exhibit B)

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The

Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

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.

The Department must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes a thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210 (July 2017), p. 1. Additional verifications may be required at redetermination or renewal. For MA cases, verifications are due the same date as the redetermination packet. The Department allows a client a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. BAM 210, p. 16. For MA cases, benefits stop at the end of the benefit period unless a renewal is completed, requested verifications are received and a new benefit period is certified. BAM 210, p. 3. The Department will provide the client with timely notice of the negative action if the time limit is not met. BAM 210, p.14.

For FAP cases, verifications at redetermination must be provided by the end of the current benefit period **or** within 10 days after they are requested, whichever allows more time. FAP benefits stop at the end of the benefit period unless a redetermination is completed, verifications received, and a new benefit period is certified. BAM 210, pp. 2-3. The Department will automatically close the FAP case without sending a Notice of Case Action. BAM 210, p.10-12.

At the hearing, the Department testified that Petitioner's FAP, MA (under the Ad-Care), and MSP cases were closed in error, as the Department had timely received the verifications requested. The Department stated that after receiving Petitioner's hearing request, it processed the verifications submitted, and reinstated her FAP case effective August 1, 2017 and her MA and MSP cases effective September 1, 2017, as she continued to be approved for FAP, MA and MSP benefits. The Department presented documentation including an eligibility summary and a benefit summary inquiry in support of its testimony that Petitioner's FAP, MA under the Ad-Care category and MSP cases were reinstated with no lapse in her benefits (Exhibit A, pp. 39-41; Exhibit B). The evidence also showed that on September 7, 2017 the Department sent Petitioner a Benefit Notice advising her that her cases were reinstated (Exhibit A, pp. 37-38).

Petitioner raised concerns at the hearing regarding a subsequent closure of her FAP case effective October 1, 2017. Petitioner was advised that should she dispute the

closure of her FAP case effective October 1, 2017, she was required to submit a new hearing request, as this is determined to be a subsequent negative action that the undersigned Administrative Law Judge does not have the authority to address because clients have 90 days from the date of a written notice of case action to request a hearing. BAM 600 (April 2017), pp. 4-6.

With respect to Petitioner's MSP benefits, although the Department established that it reinstated Petitioner's MSP case under the QMB category effective September 1, 2017, 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. While the Department testified that the action had been corrected with the reinstatement of Petitioner's MSP case, Petitioner testified that the SSA had begun withholding her Medicare Part B premiums effective September 2017 and as of the hearing date, continued to do so.

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 Ad-Care 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.

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 Ad-Care 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.

There was no evidence presented to dispute that Petitioner has been eligible for Medicare Part A and that she has been approved for MA under the Ad-Care 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. The Department did not present an SOLQ during the hearing, thus, the Part B Buy-In start and stop date were unknown. The Department presented Case Comments suggesting that there was communication with the Buy-In Unit regarding the processing of Petitioner's MSP Buy-In case, however, according to the Case Comments Summary, as of the hearing date, the Buy-In had not been processed as there was an error/issue with the Medicare Buy-In Status (MBS) Code that needed to be resolved. (Exhibit C).

Therefore, 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 evidence presented established that prior to the hearing, the Department corrected the action that Petitioner requested a hearing on by reinstating her FAP and MA cases and approving her for ongoing FAP and MA benefits. Therefore, there remains no issue left to be resolved with respect to Petitioner's request for hearing regarding the closure of her FAP and MA cases. As such, Petitioner's hearing request regarding the closure of Petitioner's FAP and MA cases is **DISMISSED**.

However, 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 although the Department reinstated Petitioner's MSP case, the Department did not act in accordance with Department policy when it failed to properly process Petitioner's MSP benefits under the QMB category, specifically, the Part B Buy-In.

DECISION AND ORDER

Accordingly, the hearing request regarding FAP and MA is **DISMISSED** and the Department's MSP 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 (or September 1, 2017, whichever date is earlier), 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 (or September 1, 2017, whichever date is earlier), 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-Washtenaw-Hearings
BSC4 Hearing Decisions
EQAD
M. Best
D. Sweeney
M. Holden
MAHS

Petitioner

- Via First-Class Mail:



Counsel for Petitioner

- Via First-Class Mail:

