



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: April 23, 2018  
MAHS Docket No.: 18-001484  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 three-way telephone hearing was held on April 12, 2018, from Detroit, Michigan. The Petitioner was represented by [REDACTED] of [REDACTED], the Petitioner's Authorized Hearing Representative (AHR). The Petitioner did not appear. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager and [REDACTED] Eligibility Specialist.

**ISSUE**

Did the Department properly process the Petitioner's application for the Medicare Savings Program (MSP) benefits?

**FINDINGS OF FACT**

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

1. The Department received an application for Medical Assistance (Medicaid) and Medicare Cost Sharing filed by the Petitioner's AHR on behalf of Petitioner on January 31, 2018. Exhibit A.
2. The Petitioner's AHR filed an application for Medical Assistance and MSP on December 14, 2017 faxed to the Department at the following number, [REDACTED]. The Petitioner's AHR also provided a fax verification that the document went through and was received on December 14, 2017. The Department did not

- have a record that it received the December 14, 2017 MA application. Petitioner Exhibit 1.
3. The Department also received a retroactive MA application on January 31, 2018 for the months of August 2017, September 2017 and October 2017. Exhibit A, p. 18.
  4. The Department approved the Petitioner MA application and approved MSP for SLMB effective beginning March 1, 2018 and for ALMB April 2018 ongoing.
  5. The Department issued a Health Care Coverage Determination Notice on March 19, 2018 approving the Petitioner for MSP (full coverage QMB) effective March 1, 2018.
  6. The Petitioner receives a pension in the amount of [REDACTED] and receives unearned income from Social Security in the amount of [REDACTED].
  7. The Petitioner's AHR filed a timely hearing request on February 6, 2018 protesting the Department's actions.

### **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.

In this case, the Petitioner's AHR filed an application for MA and MSP on December 14, 2017. The Petitioner's AHR requested a hearing regarding the failure of the Department to process the December 2017 application and determine eligibility for MSP. The hearing request did not seek a review of the Department's determination regarding Petitioner's MA eligibility but requested a hearing regarding only Medicare Savings Program Benefits. At the hearing the Petitioner's AHR, [REDACTED] credibly testified that [REDACTED] faxed the application to the Department on December 14, 2017 and presented a fax verification for the document indicating that the document went through. Petitioner Exhibit 1. The Department never processed the application

because it testified that it did not receive the December 14, 2017 application. The Department further testified that the fax number where the application was faxed was a valid department fax number. The issue in this case is that the Petitioner's AHR disputes the Department's determination regarding the start date of Petitioner's MSP benefits which began March 1, 2018 and that based upon the December 14, 2017 application, MSP benefits for MSP should have begun as of January 2018 or February 2018 based upon the application filing date. The Department testified that it approved the Petitioner for MA Ad Care effective October 1, 2017 through December 31, 2017 (retro MA) and that Petitioner was not eligible for Ad Care as of January 1, 2018 due to excess assets. Exhibit D.

The Department advised that the Petitioner was approved for SLMB for March 2018 and for ALMB for April 2018. The Department was to provide an eligibility summary via fax after the hearing regarding the MSP eligibility, but it was not received.

The Medicare Savings Programs consist of 3 categories that make up the program which are:

1. Qualified Medicare Beneficiaries (QMB).  
This is also called full-coverage QMB and just QMB. Program group type is QMB.
2. Specified Low-Income Medicare Beneficiaries (SLMB).  
SLMB called limited-coverage QMB and SLMB. Program group type is SLMB.
3. Q1 Additional Low-Income Medicare Beneficiaries (ALMB).  
This is also referred to as ALMB and as just Q1. Program group type is ALMB.

There are both similarities and differences between eligibility policies for the three categories. Benefits among the three categories also differ.

Income is the major determiner of category.

QMB net income cannot exceed for a MA group size of one is \$1,025.00 (pays Medicare Premiums).

SLMB net income cannot exceed \$1,025.01 - \$1,226.00 (Pays Medicare Part B premiums)

ALMB net income cannot exceed \$1,226.01 - \$1376.75 (Pays Medicare Part B premiums provided funding is available). RFT 242 (April 2017) pp. 1-2.; BEM 165 (October 2016), pp. 1-2.

All MA eligibility factors must be met in the calendar month being tested.

There are also various begin dates for the 3 MSP categories:

QMB coverage begins the calendar month **after** the processing month. The Processing month is the month during which an eligibility determination is made. **QMB is not available for the processing months or past months.** BEM 165, p. 3

SLMB coverage is available for retro MA months and later months.

**Note:** SLMB is only available for months income exceeds the QMB limit. A person **cannot** choose SLMB in place of QMB in order for coverage to start sooner (example, to get retro MA). BEM 165, p. 4

Do **not** approve ALMB for any month that is in a previous calendar year, even if application was made in the previous calendar year.

**Example:** Application was made December 27, 2015. Eligibility was determined on January 3, 2016. ALMB **cannot** be approved for any time before January 1, 2016. BEM 165, p. 4

There is no requirement that a separate application be filed or a re-application for an MSP determination.

In this case it is determined that the Petitioner did file an application on December 14, 2017 and the Petitioner is entitled to have that application processed to determine her eligibility for the Medicare Savings Program for the appropriate month. This determination is based upon the fact that the Petitioner's AHR provided a fax verification receipt for the 43-page document in question to a State of Michigan fax number that was acknowledged as a state fax number by the Department during the hearing. In addition, the Petitioner's AHR's hearing request on behalf of Petitioner specifically identified that it had filed an earlier application and referenced the December 14, 2017 application filing date and requested a hearing so that the Department would process the application. Therefore, the December 14, 2017 application must be registered and processed to determine the Petitioner's eligibility for MSP as of the application date based upon Petitioner's income and other MSP eligibility factors. Department policy provides:

A request for assistance may be in person, by mail, telephone, email or online.

#### All Programs

Electronically filed applications include all applications filed online in MI Bridges, faxed, or emailed.

Medicaid Only

For applications filed electronically, the date of the application is the submission date regardless of the time received. BAM 110, (January 1, 2017), pp. 5-6.

All applications, redeterminations, referrals, initial asset assessments, member adds, and program adds must be registered on Bridges. BAM 110, p. 20.

Because the Department is required to process the electronically filed December 14, 2017 application, the undersigned will not review the current determination by the Department MSP as its determination may change based upon facts not in evidence such as income received by Petitioner in December 2017 and assets for that month as well as other eligibility facts which the Department must determine when processing the December 14, 2017 application as ordered herein.

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 failed to process the Petitioner's December 14, 2017 application for MSP benefits.

**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. The Department shall register the Petitioner's December 14, 2017 application for Medicare Savings Program benefits and determine the Petitioner's eligibility.
2. The Department shall provide the Petitioner's AHR, [REDACTED] of [REDACTED] of all actions taken by the Department regarding the December 14, 2017 MSP application.

LF/tm



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**Lynn M. Ferris**  
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

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
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