



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 13, 2018  
MAHS Docket No.: 18-002365  
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 telephone hearing was held on April 12, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented [REDACTED], Hearing Facilitator.

**ISSUE**

Did the Department properly determine the correct month that Medicare Cost Share (MSP) benefits should start based upon the Petitioner's application dated February 6, 2018?

Is the Petitioner's hearing request dated February 26, 2018 regarding denial of State Emergency Relief application timely?

Is there any issue to be determined regarding the Petitioner's Food Assistance reinstatement?

**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 Petitioner filed an application for SER regarding assistance with her property taxes on January 4, 2017 and the Department denied the application for SER on January 11, 2017.

2. The Petitioner did not timely return a Semi Annual Contact Report, but completed the Semi Annual and was approved for FAP benefits ongoing for [REDACTED] a month with no loss of FAP benefits. Exhibit A.
3. The Eligibility Summary regarding FAP indicated that from December 2017 through the hearing date, the Petitioner has received FAP benefits in the amount of [REDACTED] monthly with no lapse in coverage. Exhibit A.
4. The Department closed Petitioner's Medicare Savings Program benefits due to Petitioner's failure to return the redetermination which was due December 4, 2017.
5. The Petitioner reapplied for Medicare Saving Program Share benefits on February 6, 2018 and was approved effective March 1, 2018. Exhibits B and C.
6. The Petitioner was at the local office in January 22, 2018 and was given a paper application for Medical Assistance (MA) for the Medicare Savings Program because the Department's computer system was down and was not available for filing an online application.
7. The Petitioner requested a hearing on February 26, 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 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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

#### State Emergency Relief Appeal Timeliness

In this case, the first issue to be addressed is the timeliness of Petitioner's hearing request of February 26, 2017 appealing the Department's denial of Petitioner's State Emergency Relief Application for property tax assistance dated January 4, 2017 which the Department denied by the Notice of Case Action on January 11, 2017. This application was the only application of record. Department policy provides:

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days; see Where to File a Hearing Request, found in this item.

Requests for a hearing must be made in writing and signed by one of the persons listed above. The request must bear a signature. Faxes or photocopies of signatures are acceptable. Michigan Administrative Hearings System (MAHS) will deny requests signed by unauthorized persons and requests without signatures.

**Note:** Unless otherwise stated elsewhere, computation of time for the purposes of administrative hearings is determined as follows:

- Time is measured in calendar days.
- The computation of time begins on the day after the act, event, or action occurs. (The day on which the act, event, or action occurred is **not** included.)
- The last day of the time period is included, unless it is a Saturday, Sunday, State of Michigan holiday, or day on which the State of Michigan offices are closed. (In such instances, the last day of the time period is the next business day.)
- The last day of the time period runs through the normal close of business. BAM 600 (April 2018), pp. 2, 6.

Based upon the foregoing policy it is determined that the Petitioner's Hearing Request is untimely as it was not filed within 90 days of January 11, 2017.

The Petitioner also requested a hearing regarding her Food Assistance which she believed was closed on February 28, 2018 because the Semi Annual Contact Report was not timely returned. At the hearing the Department testified that it had received the Semi Annual document, and a Notice of Case Action was issued on March 6, 2018 approving the FAP benefit renewal and did not miss any FAP benefits and the benefit amount remained at ██████ monthly. The Department provided an eligibility summary which established that the Petitioner has received FAP benefit ongoing since December 2017. Exhibit A. The Petitioner acknowledged that she is receiving her FAP benefits and did not have any issue with the FAP benefits. Therefore, it is determined that there remains no issue with respect to the Petitioner's February 26, 2018 hearing request as regards her FAP benefits and therefore no issue remains to be decided by the undersigned and the hearing request with respect of FAP will be dismissed.

#### Medicare Savings Program (MSP)

The Petitioner had a MSP annual review (DHS 1010) for a redetermination on November 4, 2017, due December 4, 2017 which was not returned. The Petitioner did not dispute that the redetermination was not returned. The Department accordingly closed the Petitioner's MSP benefits due to the Petitioner not returning the redetermination. The Petitioner reapplied for MSP on February 6, 2018. The Petitioner did not receive MSP for January 2018 or February 2018. On March 14, 2018, the Department issued a Health Care Coverage Determination Notice that approved the Petitioner MSP effective March 1, 2018. Exhibit C.

The Petitioner seeks to have MSP granted to her for February 2018 based upon the following facts. The Petitioner was at the local office in January 2018 to apply for MSP at which time the Department's computer system was down, thus she could not complete an online application. The Petitioner was given a paper application while at the local office in January but did not complete it. Petitioner's reason for not completing the paper application in January 2018 was that no one told her it would be the same as the online application. The Petitioner did not indicate at the hearing that she asked anyone at the Department that day if she should complete the paper application. The Petitioner was advised that she could have the paper application now or come back to complete an online application when the computer system was back up. Petitioner did not come in the next day to complete an application, and did not complete the paper application and chose on her own to wait until February 6, 2018 to apply. The Petitioner had no reason to have not completed a MSP application prior to February 6, 2018 other than the Department did not tell her to complete the paper application and her decision not to apply until February 6, 2018. However, having been given a paper application which she did not complete, it is determined that Petitioner chose not to complete the application, and could have completed the paper application given to her at the time the Department's computers were down or mailed it back to the Department like she would a redetermination. It was Petitioner's choice not to ask further if the application given to her should be filled out. Therefore, there is no basis for the undersigned to order that

the Department reprocess the MSP for an earlier date based upon the Petitioner's January 2018 visit to the Department when the computers were down.

With respect to the start date for the MSP approved by the Department starting March 1, 2018, and the Petitioner was found eligible for full coverage MSP (QMB). However, QMB is not available for the application month. Department policy provides:

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).

There are also various begin dates for the 3 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

The Department Glossary defines the processing month as "The calendar month during which the specialist determines MA eligibility." BPG Glossary (April 2018), p. 52.

Based upon the evidence presented at the hearing and the Petitioner's February 6, 2018 application date for MSP, it is determined that the Department processed the MSP application in February 2018 and thus the Department correctly started the MSP benefits effective March 1, 2018.

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 determined the Petitioner was eligible for the Medicare Savings Program effective March 1, 2018.

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 Petitioner's hearing request dated February 26, 2018 regarding State Emergency Relief is untimely due to the request being received more than 90 days after the January 11, 2017 Notice of Case Action.

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 Petitioner's hearing request dated February 26, 2018 regarding receipt of Food Assistance has no issue which remains to be decided as the Petitioner is currently receiving food assistance ongoing and there is no further issue presented to be decided.

**DECISION AND ORDER**

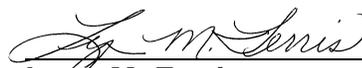
Accordingly, the Department's decision is regarding the Medicare Savings Program is

**AFFIRMED.**

Accordingly, the Petitioner's February 26, 2018 hearing requests for State Emergency Relief and Food Assistance are hereby DISMISSED.

IT IS SO ORDERED.

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

DHHS

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