



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 10, 2018
MAHS Docket No.: 18-001217
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on April 12, 2018, from Lansing, Michigan. Petitioner represented himself. The Department of Health and Human Services was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's Medical 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. On [REDACTED], the Department received Petitioner's completed Redetermination (DHS-1010). Exhibit A, pp 3-9.
2. Petitioner receives monthly unemployment compensation benefits in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 11-21.
3. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 11-21.
4. Petitioner's spouse receives monthly self-employment income in the gross monthly amount of \$ [REDACTED] Exhibit A, p 22.

5. The Department determined that Petitioner is not eligible for Medicare Savings Program (MSP) benefits effective [REDACTED]. Exhibit A, p 23.
6. On [REDACTED], the Department received Petitioner's request for a hearing protesting the closure of his Medicare Savings Program (MSP) benefits. Exhibit A, p 2.

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.

There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLMB), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2018), pp 2-4.

The income limit for a married couple to received MSP benefits under any category is \$1,847. Department of Health and Human Services Reference Table Manual (RFT) 242 (April 1, 2018), pp 1-3.

Petitioner was an ongoing MSP recipient under the ALMB category when the Department received his Redetermination (DHS-1010) form on [REDACTED]. The Department determined that Petitioner is not eligible for MSP benefits under any category based on the sum of his unemployment benefits, his RSDI benefits, and his wife's self-employment income exceeding the \$1,847 income limit.

It was not disputed during the hearing that the Department did not provide Petitioner with written notice that he was no longer eligible for MSP benefits as directed by Department policy. Although the Department must bear the burden of establishing that

the closure of Petitioner's MSP benefits, Petitioner has the burden of establishing that he is eligible for benefits. The failure to provide proper notice of ineligibility does not create an entitlement to benefits that Petitioner is not eligible for.

The Department's representative testified that it was assumed that Petitioner was not receiving earned income from employment while also receiving unemployment benefits. It was not disputed that Petitioner's earned income was not applied towards the determination of this eligibility for MSP benefits.

However, the income that was considered makes Petitioner ineligible for MSP benefits and his earned income does not create eligibility.

The Department's representative testified that Petitioner's circumstances may have changed since his request for a hearing was received. Petitioner's eligibility for MSP benefits in the future may change based on his current circumstances, but this is not relevant to the Department's action under consideration in this hearing.

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 found Petitioner to be ineligible for MSP benefits effective [REDACTED].

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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]

Petitioner

[REDACTED]