



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: October 8, 2019  
MOAHR Docket No.: 19-008937  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**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 October 2, 2019, from Detroit, Michigan. The Petitioner was self-represented and her friend [REDACTED] appeared as a witness. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

**ISSUE**

Did Petitioner submit a timely request for hearing?

Did the Department properly deny Petitioner's request for 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. On November 30, 2018, Petitioner submitted an Application for MSP benefits.
2. On December 17, 2018, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that she was ineligible for MSP benefits for November 2018 but that she was eligible for full coverage MSP benefits effective December 1, 2018; in addition, she was informed that if she wanted to file a request for hearing, the request must be received by the Department by March 18, 2019.

3. On July 25, 2019, the Department issued another HCCDN to Petitioner informing her that she was ineligible for MSP benefits for November 2018 because applicants are not eligible in the month of application.
4. On August 19, 2019, Petitioner submitted a request for hearing disputing the Department's failure to pay her Medicare Part B premium for November 2018.

### **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.

MSP is a category of the MA program. In this case, Petitioner disputes the denial of her MSP benefits for November 2018. The Department asserts that Petitioner's hearing request is not timely because the Department issued a HCCDN regarding her denial of MSP benefits on December 17, 2018 with requests for hearing due by March 18, 2019.

Policy provides that all hearing requests must be received by the Department within 90 days of the notice of case action. BAM 600 (October 2018), p. 6. Ordinarily, the Department would be correct that Petitioner's request for hearing was not timely. However, due to a known and reoccurring problem within the Department's computer system, a HCCDN was issued on July 25, 2019 to Petitioner regarding her November 2018 eligibility well after the issue had been decided and the original request for hearing deadline had passed. Once the Department issues a HCCDN, a client has a right to a hearing as indicated on each HCCDN. Therefore, Petitioner's request must be honored. Petitioner's request for hearing was timely.

Turning to the issue of Petitioner's MSP eligibility, she was denied coverage for November 2018 because applicants are not eligible for coverage in the month of application. Policy provides that full coverage Medicare Savings Program (MSP) in the Qualified Medicare Beneficiary (QMB) category begins the calendar month after the processing month. BEM 165 (January 2018), p. 3. QMB is not available for past months or for the processing month. *Id.* Since Petitioner submitted her Application for MSP benefits on November 30, 2018, she is not eligible for MSP QMB benefits in

November 2018 as November is considered the processing month. The Department properly denied Petitioner's request for MSP benefits in November 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 denied Petitioner's Application for MSP QMB in the month of application.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.



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**Amanda M. T. Marler**

Administrative Law Judge

for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

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

**DHHS**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**CC:**

[REDACTED]  
[REDACTED]