



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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Date Mailed: August 19, 2019
MOAHR Docket No.: 19-007125
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 August 15, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor.

ISSUE

Did the Department properly close Petitioner's Medicare Savings Program (MSP) benefit case?

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 MSP benefit recipient.
2. In August 2018, the Department closed Petitioner's MA Supplemental Security Income (SSI) and State SSI Payment (SSP) benefit cases (Exhibit A, pp. 8-12).
3. On May 24, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that her MSP benefit case was closing effective July 1, 2019, ongoing (Exhibit A, pp. 13-15).
4. On June 28, 2019, Petitioner submitted a request for hearing disputing the Department's actions related to her MSP benefit case.

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, Petitioner was an ongoing MSP benefit recipient. In August 2018, the Department closed Petitioner's SSI MA and SSP benefit cases. The Department testified that Petitioner was no longer receiving SSI benefits. In 2019, the Department discovered that Petitioner was still receiving MSP benefits as a result of her automatic eligibility due to her receipt of SSI MA. The Department closed Petitioner's MSP benefit case and sent her a new application.

Persons receiving MA for SSI recipients are automatically entitled to receive MSP benefits under the full-coverage Qualified Medicare Beneficiaries (QMB) category. BEM 165 (January 2018), p. 3. An ex parte review is required before MSP closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. BEM 165, p. 9. When possible, the Department is to begin the ex parte review at least 90 days before the anticipated change is expected to result in case closure. BEM 165, p. 9.

The Department testified that an ex parte review was not completed prior to the closure of Petitioner's MSP benefit case. The Department stated that an application for MA benefits was sent to Petitioner subsequent to the closure of her MSP benefit case. As stated above, the Department is to conduct an ex parte review prior to closure unless the individual's SSI is stopped for a reason that would prevent continued MA eligibility, such as the recipient's death or relocation out of state. BEM 165, p. 9. The Department failed to present any evidence that Petitioner's circumstances would prevent her from being eligible under other MA programs. Therefore, the Department did not properly follow the ex-parte review process before closing Petitioner's MSP benefit case.

DECISION AND ORDER

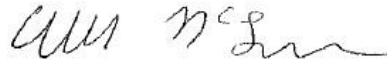
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's MSP benefit case.

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. Reinstate Petitioner's MSP benefit case effective July 1, 2019;
2. Conduct an ex parte review of Petitioner's ongoing MSP benefit eligibility;
3. If Petitioner is eligible for MSP benefits, issue supplements she is entitled to receive in accordance with Department policy; and
4. Notify Petitioner of its MSP decision in writing.

EM/cg



Ellen McLemore

Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

