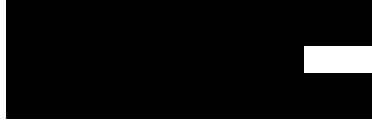




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: December 7, 2017
MAHS Docket No.: 17-012824
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 November 8, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Adam Slate, Hearing Facilitator.

ISSUE

Did the Department properly process Petitioner's Medicare Savings Program (MSP) 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 recipient of MSP benefits. (Exhibit A, p. 2)
2. On August 23, 2017 the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising him that effective October 1, 2017 he was ineligible for MSP benefits on the basis that he does not meet basic criteria. (Exhibit A, pp. 29)
3. On September 6, 2017 the Department sent Petitioner a Notice again advising him that effective October 1, 2017, he is ineligible for MSP benefits on the basis that he does not meet basic criteria. (Exhibit A, p. 26)

4. On [REDACTED], 2017 Petitioner submitted a new application for MSP benefits. (Exhibit A, pp. 11-25)
5. On September 14, 2017 the Department sent Petitioner a Notice advising him that effective September 1, 2017, ongoing, he was approved for ongoing full coverage MSP benefits. (Exhibit A, pp. 3-4)
6. On September 18, 2017 Petitioner requested a hearing disputing the Department's actions with respect to the closure of his MSP case. Petitioner specifically referenced the August 23, 2017 Notice. (Exhibit A, pp. 28-29)
7. Although Petitioner was approved for MSP benefits for September 1, 2017, ongoing, the SOLQ presented at the hearing still showed a Medicare Part B Buy-In stop date of October 1, 2017. (Exhibit B)
8. On November 4, 2017 the Social Security Administration (SSA) sent Petitioner a Retirement Survivors and Disability Insurance (RSDI) notice informing him that the State of Michigan will no longer pay his Medicare Part B premiums after October 2017 and that starting November 2017 he was required to pay his own Medicare Part B premiums. (Exhibit 1)

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 Department did not present any evidence supporting an MSP case closure effective October 1, 2017 on the basis that Petitioner does not meet basic criteria for MSP benefits. The Department conceded that Petitioner did meet basic criteria for MSP benefits and thus was approved for MSP benefits after his [REDACTED], 2017 application was processed. The Department asserted that because the Notice dated September 14, 2017 and Eligibility Summary presented show that Petitioner was approved for MSP for September 1, 2017, ongoing, there was no negative action taken by the Department at the time of the hearing.

Although the Department established that it reinstated Petitioner's MSP case effective September 1, 2017, there was no evidence presented that the Department actually processed the Medicare Part B Buy-In in order for Petitioner's Medicare Part B premiums to be paid. At the hearing, Petitioner presented documentation indicating that the SSA would begin withholding her Medicare Part B premiums after October 2017. (Exhibit 1).

MSP is a State-administered program in which the State pays an income-eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (October 2016), pp. 1-2; BAM 810, pp. 1,6. The Part B Buy-In program is used to pay Medicare Part B premiums. The program is an agreement between DCH and SSA. Department policy provides that, through the Part B Buy-In program, which administers MSP cases, Medicaid pays the Medicare premiums **and** enrolls persons eligible for, but not enrolled in, Medicare Part B if they are enrolled in Medicare Part A or have refused Medicare Part B enrollment. BAM 810, pp. 7-8.

Generally, the Buy-In program operates automatically based on computer tapes from SSA and the Department's central office. BAM 810, p. 8. For individuals who are both Medicaid and Medicare Part B eligible, the Part B buy-in effective date is the earliest date the client is both Medicaid and Part B eligible. BAM 810, p. 8. The buy-in is processed at the end of the calendar month that a case is opened in Bridges and it takes SSA about 120 days after that date in order to adjust the RSDI check and issue a refund for premiums paid by the client while the buy-in was being processed. BAM 810, pp. 7-9.

It was undisputed at the hearing that Petitioner is eligible for MSP coverage effective September 1, 2017 with no lapse in his coverage. As such, he is eligible for his Medicare Part B premiums to be paid, also with no lapse in coverage, as the closure was due to Department error. However, the SOLQ presented shows a Part B Buy-In stop date of October 1, 2017, and no re-start date, suggesting that as of the hearing date, the Department still had not processed the Buy-In to ensure that Petitioner receives a refund of Medicare premiums withheld. (Exhibit B)

Therefore, the Department will be required to process the buy-in so that there is no lapse in Petitioner's receipt or refund of premiums he has paid as a result of the Department's initial improper closure of his MSP case and buy-in stop date.

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 processed Petitioner's 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. Process Petitioner's Medicare Buy-In and enroll him in the Medicare Part B Buy-In program effective so that there is no lapse in his Buy-In coverage, in accordance with Department policy; and
2. Issue supplements to SSA for any MSP benefits Petitioner should have received but did not, so that he receives a refund for all Medicare Part B premiums he paid from the buy-in stop date, ongoing.



ZB/tlf

Zainab A. Baydoun
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

Via Email:

MDHHS-Kalamazoo-Hearings
BSC3 Hearing Decisions
EQAD
M. Best
MAHS

Petitioner – Via First-Class Mail:

