



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: December 7, 2017  
MAHS Docket No.: 17-013061  
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, an in-person hearing was held on November 7, 2017, from Ypsilanti, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Kathy Burr, Assistance Payments Supervisor. [REDACTED] from [REDACTED] served as Arabic Interpreter.

**ISSUE**

Did the Department properly close 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.
2. In connection with a redetermination, Petitioner's MSP eligibility was reviewed.
3. On March 4, 2017 the Department sent Petitioner a redetermination that he was instructed to complete and return to the Department by April 4, 2017. (Exhibit A, pp. 31-38)
4. The March 4, 2017 redetermination was sent to Petitioner at his mailing address of record at the time, [REDACTED]. (Exhibit A, pp. 31-38)

5. Petitioner did not complete and return the redetermination by the due date. (Exhibit A, p. 10)
6. On April 17, 2017 the Department sent Petitioner a Health Care Coverage Determination Notice informing him that effective May 1, 2017, his MSP case was closing on the basis that he failed to return the redetermination. (Exhibit A, pp. 27-29)
7. The April 17, 2017 Health Care Coverage Determination Notice was sent to Petitioner at his mailing address of record at the time, [REDACTED]. (Exhibit A, pp. 27-29)
8. The Social Security Administration (SSA) began withholding Medicare Premiums from Petitioner's monthly RSDI benefits effective May 2017, as the SOLQ retrieved on September 7, 2017, indicates a Part B Buy-In stop date of April 1, 2017. (Exhibit A, pp. 44-47)
9. On August 21, 2017 and in connection with a redetermination for his Medical Assistance (MA) case, Petitioner reported that he moved and that his mailing address was now [REDACTED]. (Exhibit A, pp. 19-27)
10. The Department treated the MA redetermination as a request for MSP benefits submitted by Petitioner. (Exhibit A, pp. 10,29)
11. On September 7, 2017 the Department sent Petitioner a Verification Checklist (VCL) instructing him to return proof of his checking account information by September 18, 2017. (Exhibit A, pp. 16-17)
12. Although the Department had been notified that Petitioner's mailing address changed, the Department sent the VCL to Petitioner's old mailing address of [REDACTED]. (Exhibit A, pp. 16-17)
13. On September 22, 2017 the Department sent Petitioner a Health Care Coverage Determination Notice advising him that for the month of August 2017, he was ineligible for MSP benefits under the QMB category, among other reasons on the basis that he failed to return verification of bank account checking. The Notice further advised Petitioner that effective November 1, 2017, he was ineligible for MSP benefits for the same denial reasons. (Exhibit A, pp. 11-14)
14. The September 22, 2017 Health Care Coverage Determination Notice was also sent to Petitioner's old mailing address.
15. On September 28, 2017 Petitioner requested a hearing disputing the Department's actions with respect to his MSP case. Petitioner specifically indicated that his MSP case was never processed and he has been paying his Medicare Part B premiums since May 2017. (Exhibit A, pp. 2-3)

## **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 Case Closure effective May 1, 2017**

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 Department must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes a thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210 (July 2017), p. 1. Additional verifications may be required at redetermination or renewal. For MA cases, verifications are due the same date as the redetermination packet. The Department allows a client a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. BAM 210, p. 16. For MA cases, benefits stop at the end of the benefit period unless a renewal is completed, requested verifications are received and a new benefit period is certified. BAM 210, p. 3. The Department will provide the client with timely notice of the negative action if the time limit is not met. BAM 210, p.14.

At the hearing, the Department testified that because it did not receive a completed redetermination from Petitioner by the April 4, 2017 due date, it sent him a Health Care Coverage Determination Notice on April 17, 2017 advising him of the MSP case closure effective May 1, 2017. Petitioner testified that he did not receive the redetermination, as he had moved apartments in the building and was no longer living or receiving mail at [REDACTED]. However, Petitioner confirmed that he did not report his address change to the Department until August 21, 2017 when he completed a subsequent redetermination for his separate MA case. Thus, the Department sent the redetermination to Petitioner at the correct mailing address that it had on file. Therefore, upon review, because Petitioner did not timely submit the redetermination, the Department properly closed Petitioner's MSP case effective May 1, 2017.

MSP Eligibility for August 1, 2017, ongoing

The evidence established that on August 21, 2017 Petitioner completed a redetermination for his MA case on which he reported a change in mailing address to [REDACTED]. The Department registered the redetermination as a request for MSP benefits for Petitioner and began the process of determining his MSP eligibility for August 1, 2017, ongoing, by sending him a Verification Checklist dated September 7, 2017.

To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, pp. 3-4.

For MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. BAM 130, pp. 7-9. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, pp. 7-9. Verifications are considered to be timely if received by the date they are due. BAM 130, pp. 7-9. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, pp. 8-9.

The Department stated that because Petitioner did not submit the requested verifications by the due date reflected on the VCL, it sent him the Health Care Coverage Determination Notice dated September 22, 2017, advising him that he was ineligible for MSP benefits for August 1, 2017, ongoing, because he failed to return verification of bank account asset information. (Exhibit A, pp. 11-17). At the hearing however, the Department testified that the denial was improper, as the VCL and Health Care Coverage Determination Notice were sent to Petitioner's old mailing address in error, thus, he did not receive the Department's request for verifications. Although there was some evidence to suggest that Petitioner was approved for MSP benefits and the Part B Buy-In processed for the months of September 2017 and October 2017, the Department conceded through its hearing summary that Petitioner's MSP case should be reinstated effective August 1, 2017, and his MSP eligibility re-determined from that date, ongoing. (Exhibit A, p.1). See BEM 165; BAM 810.

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 denied Petitioner's MSP eligibility for August 1, 2017, ongoing.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to MSP case closure effective May 1, 2017 and **REVERSED IN PART** with respect to MSP denial effective August 1, 2017, ongoing.

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 case effective August 1, 2017 and redetermine his MSP eligibility for August 1, 2017, ongoing;
2. If Petitioner is determined eligible for MSP benefits, process Petitioner's Medicare Buy-In and enroll him in the Medicare Part B Buy-In program in accordance with Department policy; and
3. If Petitioner is determined eligible for MSP benefits, issue supplements to SSA for any MSP benefits Petitioner should have received but did not from August 1, 2017, ongoing, in accordance with Department policy so that he receives a refund for all Medicare Part B premiums he paid from the August 2017 MSP request date, ongoing.



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**Zainab A. Baydoun**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

ZB/tlf

**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-Washtenaw-Hearings  
BSC4 Hearing Decisions  
EQAD  
M. Best  
MAHS

**Petitioner – Via First-Class Mail:**

