



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 30, 2018
MAHS Docket No.: 18-000970
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 March 28, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Pamela Herman, Hearing Facilitator.

ISSUE

Did the Department properly process Petitioner's 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. Petitioner was an ongoing recipient of MSP benefits under the Specified Low-Income Medicare Beneficiaries category.
2. On July 28, 2017, Petitioner completed a redetermination for her MSP benefits (Exhibit A).
3. On December 4, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that she was eligible for MSP benefits. Petitioner was eligible for MSP benefits under the Additional Low-Income Beneficiaries category (Exhibit B).
4. On January 19, 2018, Petitioner submitted a request for hearing.

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 requested a hearing arguing the Department was not providing her with the MSP benefits she was entitled to receive. Petitioner was informed she was qualified for MSP benefits effective November 1, 2017, ongoing, but discovered her Social Security benefits were reduced for payment of her Medicare Part B premiums in November 2017, December 2017, and January 2018.

MSP are SSI-related MA categories. There are three MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low-Income Beneficiaries (ALMB). BEM 165 (October 2016), p. 1. QMB is a full coverage MSP that pays: Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them); Medicare coinsurances; and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, pp. 1-2. Income eligibility for MSP benefits exists when net income is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in BEM 165. RFT 242, pp1-2; BEM 165, pp. 7-8.

The Department determined Petitioner was entitled to MSP benefits under the ALMB category effective November 1, 2017, ongoing. Petitioner testified she was notified by the Social Security Administration (SSA) that the Department had informed their office that her Medicare Part B premiums would be paid for by the State of Michigan effective January 1, 2018, ongoing. Petitioner was reimbursed the deduction to her January 2018 Social Security benefits for the coverage of her Medicare Part B premium. Petitioner was not reimbursed for November or December 2017.

The Part B Buy-In Program is used to pay Part B premiums. BAM 810 (October 2016 and January 2018), p. 7. For persons included in the Part B Buy-In program, Medicaid: (i) pays the Medicare premiums; and (ii) 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, p. 8. The Part B buy-in effective date is: (i) determined by SSA for SSI recipients; (ii) the month QMB or SLMB coverage begins if the only basis for buy-in is Medicare Savings Program eligibility; (iii) determined by the Department for ALMB; or (iii) the earliest date the client is both MA and Medicare Part B eligible for all other persons covered by the Buy-In Program, except that buy-in under Group 2 MA is not retroactive more than two years. BAM 810, p. 8. For clients under the ALMB category, full payment of Medicare Part B premiums is through the Part B Buy-In program provided funding is available. BAM 810, p. 8. The Department decides whether funding is available. BAM 810, p. 8.

The Department testified it believed Petitioner was eligible for MSP benefits as of November 1, 2017. The individual that testified on behalf of the Department stated she was not aware of a lack of funding that would result in Petitioner's Medicare Part B premiums not being covered by the State of Michigan. The Department did not present Petitioner's State On-Line Query (SOLQ) report showing Petitioner's Part B Buy-In Program start date. The Department provided no evidence as to the effective date of the Part B Buy-In Program. As Petitioner was eligible for ALMB benefits, the Department determines the Part B Buy-In effective date. The Department established Petitioner was eligible for MSP benefits as of November 1, 2017, ongoing. However, it is unclear as to whether the Part B Buy-In effective date was also November 1, 2017. As such, there was no evidence presented that the Department actually processed the Medicare Part B Buy-In as of the date it went into effect.

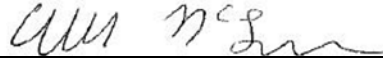
DECISION AND ORDER

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 failed to establish that it acted in accordance with Department policy when it processed Petitioner's MSP benefits.

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 her in the Medicare Part B Buy-In program as of the Part B Buy-In effective date in accordance with Department policy; and
2. Issue supplements to SSA for any MSP benefits Petitioner should have received but did not, so that she receives a refund for all Medicare Part B premiums she paid for the Buy-In effective date, ongoing.



EM/cg

Ellen McLemore
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-Calhoun-21-Hearings
M. Best
EQAD
BSC3-Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

