



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 27, 2019
MAHS Docket No.: 19-001097
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 27, 2019, from Detroit, Michigan. Petitioner was represented by his Authorized Hearing Representative (AHR), Change Healthcare. Present on behalf of Change Healthcare was Jose Gonzalez. The Department of Health and Human Services (Department) was represented by Christine Brown, Hearing Facilitator.

ISSUE

Did the Department properly process Petitioner's application 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 April 25, 2018, Petitioner submitted a retroactive application for MSP benefits.
2. On March 4, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing him that he was approved for MSP benefits effective May 1, 2018, ongoing (Exhibit B).
3. Petitioner's AHR submitted a hearing request arguing that the Department failed to properly process Petitioner's MSP benefit application.

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 submitted an application for MSP benefits. On March 4, 2018, the Department sent Petitioner a HCCDN informing him that he was approved for MSP benefits, effective May 1, 2018, ongoing.

MSP are Supplemental Security Income (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, pp.1-2; BEM 165, pp. 7-8.

The Department will begin QMB coverage the calendar month after the processing month. BEM 165 (January 2018), p. 3. The processing month is the month during which an eligibility determination is made. BEM 165, pp. 3-4. QMB is not available for past months or the processing month. BEM 165, p. 4. SLMB is available for retro MA months and later months. BEM 165, p. 4. SLMB is only available for months income exceeds the QMB limit. BEM 165, p. 4. A person cannot choose SLMB in place of QMB in order for coverage to start sooner. BEM 165, p. 4. ALMB coverage is available for retro MA months and later months; however, not for time in a previous calendar year. BEM 165, p. 4.

The Department initially testified that Petitioner's MSP eligibility begin date was May 1, 2018, ongoing, because applicants are not eligible for MSP benefits in the month of processing. However, the Department also testified that Petitioner was approved for MSP benefits under the SLMB program. Petitioner's application was for retroactive MSP benefits effective January 1, 2018. Policy specifically states that SLMB is available for

retro MA months and later months. The Department acknowledged that it did not properly follow policy when it processed Petitioner's MSP benefit application.

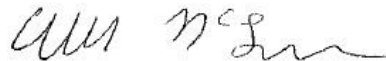
DECISION AND ORDER

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 processed Petitioner's MSP benefit application.

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 and reprocess Petitioner's April 25, 2018 MSP benefit application;
2. If Petitioner is eligible for MSP benefits, issue supplements in accordance with Department policy and;
3. Notify Petitioner and Petitioner's AHR's of its decision in writing.



EM/jaf

Ellen McLemore
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 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) 763-0155; 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

DHHS

Linda Gooden
MDHHS-Oakland-6303-Hearings

Petitioner

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[REDACTED] MI [REDACTED]

Authorized Hearing Rep.

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