



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 17, 2019
MAHS Docket No.: 19-002171
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 3-way telephone hearing was held on April 11, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Amanda Mullen, hearing facilitator, and Armando Diaz, specialist.

ISSUES

The first issue is whether Petitioner timely requested a hearing to dispute a termination of Medicare Savings Program (MSP) eligibility beginning August 2018.

The second issue is whether Petitioner timely requested a hearing to dispute the denial of an application dated August 17, 2018, requesting MSP benefits.

The third issue is whether MDHHS properly processed Petitioner's application dated December 12, 2018, requesting 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. As of June 2018, Petitioner was an ongoing recipient of MSP benefits.
2. On July 31, 2018, MDHHS mailed Petitioner written notice of a termination of MSP benefits effective August 2018. Exhibit B, pp. 1-7.

3. On August 17, 2018, Petitioner applied for MSP benefits.
4. On September 13, 2018, MDHHS mailed Petitioner written notice of a denial of MSP benefits. Exhibit B, pp. 8-11.
5. On December 12, 2018, Petitioner submitted to MDHHS an application requesting MSP benefits. Exhibit A, pp. 1-6.
6. On February 4, 2019, MDHHS approved Petitioner for MSP benefits effective January 2019. Exhibit A, pp. 37-41.
7. On February 11, 2019, and February 19, 2019, MDHHS denied Petitioner for MSP benefits for December 2018. Exhibit A, pp. 49-53 and 57-60
8. On [REDACTED], 2019, Petitioner requested a hearing disputing the absence of MSP benefits from August 2018 through December 2018. Exhibit A, pp. 61-62.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's written hearing request complained of not receiving MSP benefits from August 2018 through December 2018. Petitioner's MSP eligibility from August 2018 through December 2018 was impacted by two actions taken by MDHHS which Petitioner did not timely dispute.

A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM (August 2018), p. 6. Generally, hearing requests must be submitted to MDHHS in writing. *Id.*, p. 2. Requests for Food Assistance Program (FAP) benefit hearings may be made orally. *Id.*

On July 31, 2018, MDHHS issued notice of MSP termination to Petitioner. After Petitioner reapplied for MSP on August 17, 2018, MDHHS sent notice of application denial on September 13, 2018. Petitioner did not request a hearing until February 25, 2019. Petitioner's hearing request was submitted 209 days after MDHHS sent notice of MSP termination. Petitioner's hearing request was submitted 165 days after MDHHS issued notice of application denial.

Petitioner testified that MDHHS erred in terminating her MSP eligibility and in denying her application dated August 17, 2018. Even if Petitioner's testimony is accurate, there is no administrative hearing jurisdiction to examine erroneous MDHHS actions that are not timely disputed.

Petitioner testified that she would have requested a hearing sooner but was repeatedly told by MDHHS that her MSP eligibility would be issued. MDHHS policy makes no exceptions for untimely submitted hearing requests. Thus, Petitioner's claim will not be examined as an excuse for her untimely hearing request.

Given the evidence, Petitioner is barred due to her untimely hearing request from disputing the termination of MSP benefits beginning August 2018 or the denial of her application dated August 17, 2018. A more recent action taken by MDHHS concerning Petitioner's MSP eligibility may be examined.

Petitioner reapplied for MSP benefits again on December 12, 2018. MDHHS approved Petitioner on February 4, 2019, for MSP benefits beginning January 2019. Petitioner's hearing request was submitted timely enough to dispute whether she was entitled to receive MSP benefits back to July 2018 stemming from the processing of her application dated December 12, 2018.

There are three categories that make up MSP: Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), and Additional Low-Income Medicare Beneficiaries (ALMB). BEM 165 (January 2018) p. 1. In the present case, MDHHS approved Petitioner for the most favorable MSP category of QMB.

MDHHS is to begin QMB coverage the calendar month after the processing month. *Id.*, p. 3. The processing month is the month during which an eligibility determination is made. *Id.*, pp. 3-4. QMB is not available for past months or the processing month. *Id.*, p. 4.

Petitioner applied for QMB in December 2018. The first month that MDHHS could have made an eligibility determination was December 2018. Thus, MDHHS could not have issued QMB earlier than January 2019 – the month after Petitioner applied. MDHHS policy also precludes issuance of QMB for any months before the processing months (in the present case, the earliest processing month possible is December 2018). Thus, MDHHS properly issued QMB to Petitioner for January 2019, properly denied MSP to Petitioner for December 2018, and properly did not examine Petitioner's MSP eligibility for a benefit month earlier than December 2018.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely request a hearing disputing a termination of MSP benefits beginning August 2018. Petitioner also failed to request a hearing disputing the denial of MSP benefits from an application dated September 13, 2018. Concerning the termination of MSP and application dated September 13, 2018, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly processed Petitioner's application dated December 12, 2018, requesting MSP benefits. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki

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

Via Email:

MDHHS-Calhoun-21-Hearings
D. Smith
EQAD
BSC3- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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