



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: June 27, 2019
MOAHR Docket No.: 19-003992
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 May 30, 2019, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator and [REDACTED], Eligibility Specialist.

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 previously a recipient of Medical Assistance (MA) benefits under the Ad-Care category and was previously approved for MSP benefits under the Qualified Medicare Beneficiaries (QMB) category. Petitioner's MA and MSP cases close on or around August 31, 2018.
2. In September 2018, Petitioner reapplied for MA and MSP benefits.
3. On October 25, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that she was approved for full coverage MA for the period of September 1, 2018, ongoing and that she was approved for full

coverage MSP benefits for the period of October 1, 2018, ongoing (Exhibit A, pp. 4-6)

4. Although Petitioner was approved for full coverage MSP benefits under the QMB category effective October 1, 2018, the Department failed to process the Medicare Part B Buy-In and thus the Social Security Administration (SSA) began withholding \$135.50 from Petitioner's monthly benefits for her Medicare premiums. As of the hearing date, SSA was continuing to withhold payment for monthly Medicare premiums from Petitioner.
5. It was undisputed that Petitioner is eligible and was approved for QMB benefits and that she should be reimbursed for premiums that she paid.
6. On or around April 12, 2019, Petitioner requested a hearing disputing the Department's actions with respect to her MSP case. (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.

Although the Department sent Petitioner a Health Care Coverage Determination Notice approving her for MA benefits under the Ad-Care category effective September 1, 2018 and MSP benefits under the QMB category effective October 1, 2018, there was insufficient evidence presented that the Department processed the Medicare Part B Buy-In in order for Petitioner's Medicare Part B premiums to be paid. Petitioner testified that SSA has been withholding \$135.50 from her monthly social security benefits for Medicare premiums since October 2018.

MSP is a State-administered program in which the State pays an income-eligible client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), pp 1-2; BAM 810 (January 2018), pp. 1, 6. Medicare Savings Programs are SSI-related MA categories. The QMB category 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. BEM 165, pp. 1-2. Persons receiving MA under the Ad-Care category and entitled to Medicare Part A are

considered QMB eligible without a separate QMB determination. BEM 165, p. 3. For purposes of the QMB program, entitled to Medicare Part A means the person either (i) receives Medicare Part A with no premium being charged (as shown on the State Online Query (SOLQ), or (ii) refused premium-free Medicare Part A (indicated by a claim number suffix of M1), or (iii) is eligible for, or receiving, Premium HI (hospital insurance) (indicated by claim number suffix "M"). BEM 165, p. 5.

The Part B Buy-In program is used to pay Medicare Part B premiums. The program is an agreement between DCH and SSA. The program covers persons who are eligible for both Medicare Part B and are recipients of MA under the Ad-Care category. 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.

There was no evidence presented to dispute that Petitioner has been eligible for Medicare Part A and that she has been approved for MA under the Ad-Care category with no lapse in her coverage or eligibility, as the Department testified that Petitioner's prior MA case closed effective August 31, 2018 and her new application was approved with an effective date of September 1, 2018. As such, she is eligible for QMB coverage and her Medicare Part B premiums to be paid, also with no lapse in coverage.

The Department presented email communications suggesting that there was communication with the Buy-In Unit regarding the processing of Petitioner's MSP Buy-In case; however, a Help Desk ticket had to be issued as Petitioner's QMB and the approved Medicare buy-in status was not being updated through the Bridges system. (Exhibit A, pp. 12-13). The buy-In start and stop dates were unverified and unexplained by the Department. 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 she has paid as a result of the Department's failure to timely process the buy-In as required.

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 failed to properly process Petitioner's MSP benefits under the QMB category, specifically, the Part B Buy-In.

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 her in the Medicare Part B Buy-In program effective the buy-in stop date (or October 1, 2018, whichever date is earlier), ongoing, in accordance with Department policy; and
2. Issue supplements to SSA for any MSP benefits Petitioner should have received but did not from the buy-in stop date (or October 1, 2018, whichever date is earlier), ongoing so that she receives a refund for all Medicare Part B premiums she paid from the buy-in stop date, ongoing.

ZB/tlf


Zainab A. Baydoun

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]