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GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: July 30, 2019  
MOAHR Docket No.: 19-006038  
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 telephone hearing was held on July 3, 2019, from [REDACTED] Michigan. Petitioner appeared and was represented by his attorney and mother, [REDACTED]. The Michigan Department of Health and Human Services (MDHHS) was represented by Kevin Lowe, specialist.

### **ISSUES**

The first issue is whether MDHHS properly closed Petitioner's Medicare Savings Program (MSP) eligibility.

The second issue is whether MDHHS properly processed Petitioner's application for 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 March 2019, Petitioner was an ongoing recipient of Medicare Part A, MSP, and Medicaid.
2. On March 18, 2019, MDHHS initiated termination of Petitioner's Medicaid eligibility, effective April 2019, due to Petitioner not timely returning redetermination documents. Exhibit A, pp. 1-5.

3. On April 1, 2019, Petitioner reapplied for medical benefits. Petitioner's application reported an ongoing disability and receipt of Retirement, Survivors, and Disability Insurance.
4. On April 1, 2019, MDHHS approved Petitioner for Medicaid beginning April 2019 under the Healthy Michigan Plan (HMP).
5. On an unspecified date, MDHHS approved Petitioner for Medicaid under Aged-Disabled Care (AD-Care) beginning May 2019 and issued MSP benefits to Petitioner beginning May 2019.
6. On May 6, 2019, Petitioner requested a hearing to dispute MSP eligibility for April 2019.

### **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 requested a hearing to dispute MSP eligibility. Petitioner testified that, as of the hearing date, his only dispute concerned MSP eligibility for April 2019. Petitioner's April 2019 MSP eligibility could have been affected by a closure of MSP beginning March 2019 and/or the processing of an application dated April 1, 2019. Whether MDHHS properly closed Petitioner's MSP eligibility will be first examined.

MDHHS must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210 (January 2018), p. 1.

For all programs, Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. A redetermination/review packet is considered complete when all of the sections of the redetermination form, including the signature section, are completed. *Id.*, p. 11. Medicaid benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. *Id.*, p. 4.

MDHHS initiated termination of Petitioner's ongoing MSP eligibility beginning April 2019 due to Petitioner's alleged failure to submit a Redetermination form. MDHHS policy requires a Redetermination form (or other acceptable document) to be submitted before the end of the benefit period or benefits will close (see BAM 210). Based on MDHHS

mailing a closure notice to Petitioner on March 18, 2019, informing Petitioner of a closure beginning April 2019, Petitioner's benefit period was likely certified only through March 2019. Thus, Petitioner had only through March 2019 to submit a Redetermination form (or other acceptable document) to continue receiving MSP benefits. Petitioner submitted an application to MDHHS on April 1, 2019. An application is an acceptable substitution for a Redetermination form but the submission date was one day after the end of Petitioner's MSP benefit period. Thus, MDHHS could not consider Petitioner's ongoing MSP eligibility because his eligibility ended one day earlier.

Given the evidence, MDHHS properly closed Petitioner's MSP benefits beginning April 2019 due to Petitioner's failure to timely submit a Redetermination. The analysis will proceed to consider whether MDHHS properly processed Petitioner's application dated April 1, 2019.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

Persons may receive both Medicaid and MSP benefits. BEM 105 (April 2017) p. 2. MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, coinsurances, and deductibles. BEM 165 (January 2018), p. 2. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. *Id.* Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if DHHS funding is available. *Id.* Persons receiving AD-Care and entitled to Part A are automatically eligible for QMB without a need for a separate determination. *Id.*, p. 3.

MDHHS gave no justification during the hearing for why Petitioner was not issued MSP benefits for his month of application. The lack of MSP benefits to Petitioner for April 2019 may be explainable by the Medicaid category assigned to Petitioner for April 2019

On his application dated April 1, 2019, Petitioner reported that he was disabled and received RSDI. Petitioner's Medicaid history (Exhibit A, p. 9) verified that Medicaid was issued to Petitioner beginning May 2019 under AD-Care. Presumably, Petitioner's AD-Care eligibility coincided with MSP eligibility as Petitioner acknowledged he received his full RSDI amounts from May 2019, but not for April 2019. If Petitioner received Medicaid

under AD-Care from MDHHS in May 2019, Petitioner would likely be eligible for AD-Care in April 2019. Instead, MDHHS inexplicably approved Petitioner for Medicaid under the Healthy Michigan Plan (HMP) in April 2019. Exhibit A, p. 9. MDHHS could not explain why Petitioner was approved for HMP in April 2019 rather than AD-Care. HMP eligibility is especially curious because Medicare recipients (such as Petitioner) are not eligible for HMP. BEM 137 (January 2019) p. 1. If Petitioner was entitled to receive Medicaid under AD-Care in April 2019, then he would be “automatically eligible for QMB without a need for a separate determination”. *Id.* Under the circumstances, AD-Care is a more beneficial category for Petitioner over HMP and one which MDHHS should have considered for Petitioner.

During the hearing, Petitioner’s HMP eligibility for April 2019 was thought to be the cause of Petitioner not receiving MSP for April 2019. A review of MDHHS policy following the hearing indicated that perhaps MDHHS may have not issued MSP to Petitioner in April 2019 because MDHHS processed Petitioner’s eligibility that month.

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. Regardless of when Petitioner’s QMB eligibility was processed, Petitioner’s QMB eligibility is automatic if eligible for Medicaid under AD-Care. *Id.*, p. 3.

Given the evidence, MDHHS failed to evaluate Petitioner for AD-Care eligibility for April 2019. Petitioner’s remedy is for MDHHS to reconsider Petitioner’s AD-Care eligibility for April 2019 and to issue MSP benefits if Petitioner is eligible for AD-Care.


### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to justify not issuing MSP benefits to Petitioner in April 2019. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner’s MSP eligibility for April 2019 subject to the finding that MDHHS failed to consider Petitioner’s Medicaid eligibility under AD-Care in April 2019; and
- (2) Issue Petitioner’s automatic QMB eligibility for April 2019 if Petitioner is eligible for AD-Care.

The actions taken by MDHHS are **REVERSED**.

CG/jaf

  
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**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 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 First Class Mail  
**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Via Electronic Mail  
**DHHS**

LaClair Winbush  
MDHHS-Wayne-31-Hearings

BSC4  
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