



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: August 23, 2019
MOAHR Docket No.: 19-006946
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 August 8, 2019, from Detroit, Michigan. Petitioner did not appear for the hearing. Petitioner was represented by his Authorized Hearing Representative (AHR) [REDACTED] and his Co-Guardian, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Worker.

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.
2. Although Petitioner timely submitted a redetermination, the Department conceded that the redetermination was not timely process by the Department, which resulted in the closure of Petitioner's MA and MSP cases effective April 1, 2019. The Department acknowledged that Petitioner's MA and MSP cases should not have closed and that the case closures were due to Department error.

3. On or around April 22, 2019, Petitioner reapplied for MA and MSP benefits.
4. On June 10, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) informing him that he was approved for full coverage MA benefits from April 1, 2019 ongoing, and that he was approved for full coverage MSP benefits from May 1, 2019, ongoing. The Notice further indicates that from April 1, 2019 to April 30, 2019, Petitioner is not eligible for MSP. (Exhibit A, pp. 3-4)
5. It was undisputed that Petitioner is eligible for and should have received full MSP QMB benefits from April 1, 2019, ongoing, with no lapse in coverage and that he should be reimbursed for Medicare premiums withheld from his monthly Social Security benefit.
6. On or around June 26, 2019, Petitioner requested a hearing disputing the Department's actions with respect to his MSP case, specifically, his coverage for the month of April 2019.

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.

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 he has been approved for MA under the Ad-Care category with no lapse in his coverage or eligibility, as the Department testified that Petitioner's prior MA case closed effective April 1, 2019 and his new application was approved with an effective date of April 1, 2019. As such, he is eligible for QMB coverage and his Medicare Part B premiums to be paid, also with no lapse in coverage. Additionally, the Department conceded that Petitioner's MSP case closed in error effective April 1, 2019, further supporting the Department's testimony that Petitioner should be reimbursed for premiums paid.

Although Petitioner's Part B buy-in stop date was unknown, the Department further acknowledged that as of the hearing date, it had not contacted the buy-in unit to process the buy-in so there is no lapse in Petitioner's receipt or refund of premiums he has paid as a result of the Department's initial improper closure of his MSP case and buy-in stop date.

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 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 him in the Medicare Part B Buy-In program effective the buy-in stop date (or April 1, 2019, 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 April 1, 2019, whichever date is earlier), ongoing so that he receives a refund for all Medicare Part B premiums he 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]

Authorized Hearing Rep. – Via USPS

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner – Via USPS

[REDACTED]
[REDACTED]
[REDACTED]