



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], MI [REDACTED]

Date Mailed: July 8, 2020  
MOAHR Docket No.: 20-001470  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on July 01, 2020, from Lansing, Michigan. Petitioner was represented by her authorized hearing representative [REDACTED] [REDACTED]. The Department was represented by April Nemec.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner’s eligibility for Medical 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 November 27, 2019, the Department notified Petitioner that Medical Assistance (MA) benefits would close effective January 1, 2020, for [REDACTED] [REDACTED].
2. Petitioner re-applied for Medical Assistance (MA) in [REDACTED] of [REDACTED].
3. The Department granted Medical Savings Program (MSP) benefits effective January 1, 2020.
4. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner’s request for a hearing.

## **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.

The Medicare Savings Programs are SSI-related MA categories. There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low-Income Medicare Beneficiary (SLMB), and the Additional Low-Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2018), pp 1-4.

The Department sent Petitioner notice that MA eligibility for [REDACTED] was ending January 1, 2020. Mr. [REDACTED] had been receiving MA benefits under the Health Michigan Program (HMP) but was no longer eligible for that category of benefits when he became eligible for Medicare. Therefore, the closure notice for MA benefits was not a total closure of MA benefits, but only a closure of that category of MA benefits pending a determination of his eligibility under other categories.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (January 1, 2020), p 2.

Since Mr. [REDACTED] did not know that the Department would conduct an ex parte review of other categories of MA benefits, he filed an assistance application. The Department does not dispute that Mr. [REDACTED] is eligible for MA benefits, and that he is eligible for MA-QMB benefits, an SSI-based category.

Petitioner is not eligible for QMB benefits in the application month and coverage begins the month after the application month. The hearing record supports a finding that November of 2019, is the application month for Mr. [REDACTED]. Therefore, he is potentially eligible for QMB benefits in the month after the application month, which is December of 2019.

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 determined Petitioner's eligibility for Qualified Medicare Beneficiary (QMB) benefits in December of 2019.

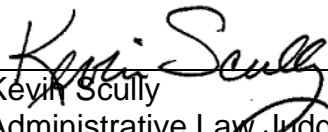
**DECISION AND ORDER**

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:

Initiate a determination of the Petitioner's eligibility for the Qualified Medicare Beneficiary (QMB) program effective December 1, 2020.

KS/nr

  
\_\_\_\_\_  
Kevin Scully  
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

