



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: May 15, 2024
MOAHR Docket No.: 24-003835
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Julia Norton

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 9, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Ofon Ekpo, 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 an ongoing recipient of Medicaid (MA) coverage under the Aged or Disabled (AD) Care program and received MSP Qualified Medicare Beneficiaries (QMB) benefits.
2. Petitioner is [REDACTED] years old, not married, and files taxes claiming no dependents.
3. Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) monthly payments of [REDACTED]
4. On January 30, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) indicating that Petitioner was only approved for Plan First Family Planning (PFFP) coverage March 1, 2024 ongoing. It further provided that Petitioner was not eligible for MSP benefits March 1, 2024 ongoing

because she did not provide proofs in response to a verification checklist. Exhibit A, pp. 13-17.

5. On March 21, 2024, the Social Security Administration (SSA) sent Petitioner a letter indicating that the State of Michigan would no longer pay her Medicare Part B premiums after February 2024 and that Petitioner would be required to pay the premiums starting March 2024. Exhibit A, p.9.
6. On March 26, 2024, the Department sent Petitioner a HCCDN indicating that Petitioner was eligible for full coverage MA under the AD Care program and MSP-QMB, effective March 1, 2024 ongoing. Exhibit A, pp.8, 22-24.
7. On April 2, 2024, the Department received Petitioner's request for a hearing disputing her MSP-QMB coverage because her Medicare Part B premium was withheld from her RSDI payments for March 2024 and April 2024. Exhibit A, pp. 27-30.
8. On April 11, 2024, the Department sent the Buy-In Unit an email indicating that Petitioner was requesting reimbursement for her Medicare Part B premium and that the Buy-In stop date was February 1, 2024 and MSP-QMB was certified on April 11, 2024. Exhibit A, pp. 25-26.
9. Petitioner received the following RSDI monthly payments: February 2024 for [REDACTED] March 2024 for [REDACTED] April 2024 for [REDACTED] and May for [REDACTED]

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.

In this case, Petitioner initially disputed the Department's action denying her MSP benefits. At the time of the hearing, the Department had reinstated Petitioner's MSP-QMB coverage, effective March 1, 2024. However, Petitioner indicated that portions of her monthly RSDI checks for both March and April were withheld to pay for the Medicare Part B premiums. She testified that her March and April 2024 checks *each*

had a withholding of \$348.70 for Medicare Part B premiums. Petitioner was also concerned that SSA would charge her for her Part B premium for February 2024.

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 the Department and SSA. 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.

Here, Petitioner is eligible for both AD Care and MSP-QMB. The Department testified that although Petitioner's prior AD Care coverage was changed to PFFP with an effective date of March 1, 2024 and MSP-QMB coverage was denied effective March 1, 2024 due to verification issues, Petitioner had timely provided requested verifications and it subsequently reinstated *both* Petitioner's AD Care coverage and MSP-QMB benefits effective March 1, 2024 ongoing, resulting in no lapse in coverage.

The SSA's letter indicated that the State of Michigan would no longer pay Petitioner's Medicare Part B premium *after* February 2024. It provided Petitioner was required to pay the premiums starting March 2024. Exhibit A, p.9. There is a discrepancy, however, between the SSA's letter and the Department's action stopping the Buy-In. The Department used February 1, 2024 as the Buy-In stop date. Exhibit A, p. 25. Although Petitioner was eligible for uninterrupted MSP-QMB coverage, the Department presented an email indicating that it had requested an MSP buy-in stop date of February 1, 2024. Therefore, while the Department established that it had reinstated Petitioner's MSP-

QMB coverage for March 2024 ongoing and Petitioner should expect a reimbursement from SSA of the Part B premiums SSA withheld for those months within 120 days, the Department failed to establish that Petitioner was provided with the MSP-QMB coverage for February 2024 that she was entitled to.

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 satisfy its burden of showing that it acted in accordance with Department policy when failing to establish that Petitioner was provided with uninterrupted MSP-QMB coverage.

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. Review Petitioner's MSP-QMB case to ensure that the State was responsible for paying Petitioner's Medicare Part B premium for February 2024 ongoing.
2. Reimburse SSA for any outstanding Medicare Part B premium payments that SSA withheld from Petitioner's RSDI payments based on any inaccurate Buy-In stop date.
3. Notify Petitioner of its decision in writing.



Julia Norton
Administrative Law Judge

JN/ml

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 Electronic Mail:

DHHS

Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
MDHHS-Wayne-41-Hearings@michigan.gov

Interested Parties

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

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