

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2008-22935

Issue No: 2017

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 22, 2009

Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone conference hearing was held on April 22, 2009.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant eligibility for the Medicare Savings Program (MSP)/Medicare Part B Premium QMB (SOM) at redetermination?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) At all relevant times prior to claimant's redetermination, claimant was a recipient of Michigan's assistance with the MSP program.

(2) Claimant was receiving \$96.40 in MSP payments for the Medicare Part B premium.

(3) Claimant resides in an Adult Foster Care (AFC) home. Claimant's MA case was reviewed in February, 2008.

(3) At review, it was determined that claimant had coverage for MA based upon Category 2--aged, blind, disabled. Claimant's deductible was being paid by her excess income to meet her deductible due to the personal care services being paid by the deductible amount. Claimant was no longer eligible for Part B payments.

(4) The MA budget shows claimant's excess income/deductible to be \$318 per month. Claimant opted to have that paid towards the personal care expense.

(5) On 2/27/08, the DHS issued notice to claimant informing her that she was not eligible for Medicare Savings Program benefits due to eligibility requirements in PEM Item 165 and 545.

(6) On 2/27/08, the DHS issued notice to claimant informing her that she was approved for full MA for February, 2008. The personal care costs were verified.

(7) On 6/10/08, claimant filed a hearing request.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Policy regarding the Medicare Savings Program is found in PEM Item 165. The program discusses the income limits and differences between the QMB, SLM, and ALMB programs.

Claimant was previously eligible for Part B payments.

RFT 242 indicates what the monthly income limits are. These monthly income limits at the time of the action herein, which also show up on claimant's MA budget, show that the full QMB limit was \$855, the limited QMB amount was \$1,025, and the LMB1 is \$1,154. Claimant's net income was \$1,088. Claimant had an excess income/deductible of \$318.

Policy further indicates that individuals who are eligible for an MA category are not eligible for Medicare Part B. The exception is having a deductible which claimant had. However, policy in PEM Item 545 identifies an exception to the exception--where the deductible is met by personal care expenses. With proper verification, there is full coverage and thus, no eligibility for the Part B premium.

This Administrative Law Judge has reviewed the policy and the DHS action herein. While this is complicated factually, the department's denial was correct and must be upheld.

It is noted that claimant can opt out of verifying her personal care expenses, thereby triggering the \$96.46 Medicare Part B premium payment. However, that would mean that claimant would need to meet an excess income/deductible expense of \$318 per month. As the case stands, the department is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's denial of claimant's Medicare Part B at redetermination was correct and thus, the department's actions are UPHELD.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 4, 2009

Date Mailed: June 4, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

JS/cv

cc:

