

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: 2009-1129

Issue No: 2011

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 30, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 hearing was held on April 30, 2009.

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's Medical Assistance (MA)?

FINDINGS OF FACT

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

(1) During August 2007, claimant reported to the department that she would be turning 65 and become eligible for Medicare Part A and B during September 2008. Claimant sworn testimony.

(2) October 29, 2007, the department prepared a Medicaid budget and determined claimant was eligible for Medicare Savings Program benefits effective November 2007.

Department A.

### 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).

Department manuals provide the following policy statements and instructions for caseworkers:

You must act on a change reported by means other than a tape match within 15 workdays after you are aware of the change.

Program Administrative Manual (PAM) 220

42 CFR 431.200-.250  
42 CFR 435.912-.913, .919

Begin QMB coverage the calendar month after the processing month. The processing month is the month during which you make the eligibility determination. QMB is not available for past months or the processing month.

Program Eligibility Manual (PEM) 165

Social Security Act sections:

1902(a)(10)(E)(i) for QMB  
1902(a)(10)(E)(iii) for SLMB  
1902(a)(10)(E)(iv) for ALMB  
1902(r)(2)  
1905(a) for retro MA  
1933 for ALMB funding

In this case, claimant reported to the department during August 2007 that she would begin receiving Medicare A and B effective September 2007. The department was required to act on this report within 15 days. Arguendo, even had claimant reported the information on the last day in August, the latest timely date to process the change was September 17, 2007. The department has daily access to the SOLQ/SSA information which should have provided any needed proof of the claimant's Medicare Premium obligation in time for the 15 day timeliness deadline. The department stated in its Hearing Summary (DHS-3050) that it received proof on September 24, 2007. No testimony was provided to establish that the information was not available on the SOLQ/SSA system prior to that date. Accordingly, had claimant's change been timely processed in September, October would have been the month after the processing month. Therefore, the department has not met its burden of proof that claimant was not eligible for QMB until November 2007 and its action can not be upheld. Finding of Fact 1-2; PEM 165; PAM 220.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services did not act in compliance with department policy when it determined claimant's Medicaid eligibility.

Accordingly, the department's action is HEREBY REVERSED. The department is to initiate a determination of claimant's eligibility for QMB in compliance with this decision and order and department policy.

/s/ \_\_\_\_\_  
Jana A. Bachman  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: May 12, 2009

Date Mailed: May 13, 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 receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JAB/db

cc:

