

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: 2009-3447
Issue No: 2017
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 7, 2009
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on May 7, 2009. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine that claimant had excess income for the Medicare Savings Program?

FINDINGS OF FACT

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

- (1) Claimant was a Medicare Savings Program recipient.
- (2) On September 4, 2008, the Department of Human Services sent a Notice of Case Action (DHS-1605) to claimant stating that the Medicare Savings Program would be closed effective October 1, 2008 because her income exceeded the limit for this program.

(3) On September 9, 2008, claimant filed a request for a hearing to contest the department's negative action.

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).

Medicare Savings Programs are SSI-related MA categories. They are neither group one or group two. This item describes the three categories that make up the Medicare Savings Program. The three categories are:

1. Qualified Medicare beneficiaries. This is also called full coverage QMB or just QMB. Program group type is QMB.
2. Specified low income Medicare beneficiaries. This is also called limited coverage QMB and SLMB. Program group type is SLMB.
3. Q1 additional low income Medicare beneficiaries. This is also referred as ALMB and as just Q1. Program group type is ALMB.

A person eligible for one of these categories cannot chose to receive a different Medicare Savings Program category. All eligibility factors must be made in the calendar month being tested. (PEM, Item 165, p. 1, 2)

Claimant is involved in the Freedom to Work Program and her Medicare premium was being paid. The department determined that claimant received [REDACTED] per month in unearned RSDI

income. Claimant received net unearned income in the amount of [REDACTED] from her son's RSDI income and child support for the period October 1, 2008. The department gave claimant a \$496 disregard by giving the required \$65 plus 1/2 disregard and claimant retains a net earned income of [REDACTED]. Claimant was given an unearned allocation to non-SSI related children of \$10.33 and unearned income general exclusion of \$20 for a net unearned income of [REDACTED] for a total net income of [REDACTED]. The income limit at RFT 242 for a one person fiscal group is \$867. (RFT 242) The income limit for AMLB monthly income limit is \$1,170 (RFT 242, p. 1)

Based upon the above information, the department has established by the necessary, competent, material and substantial evidence on the record that it was acting in compliance with department policy when it proposed to cancel claimant's Medicare Savings Program based upon claimant's receipt of excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department has established by the necessary, competent, material and substantial evidence on the record that it was acting in compliance with department policy when it proposed to cancel claimant's Medicare Savings Program (MSP) based upon its determination that claimant's income exceeds the limit.

Accordingly, the department's decision is AFFIRMED.

/s/ _____
Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 28, 2009

Date Mailed: May 29, 2009

2009-21456/LYL

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 receipt date of the rehearing decision.

LYL/vmc

cc:

