

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: 2010-2101

Issue No: 2017

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 29, 2010

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 29, 2010. Claimant personally appeared and testified.

ISSUE

Did the department properly deny claimant ongoing monthly Specified Low-Income Medicare Beneficiary (SLMB) coverage between February and October 2009?

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 is an adult disabled individual with SSA disability onset verified through SOLQ as May 12, 2002.

(2) Claimant received the SLMB benefit from 2006 through January 2009 without coverage lapse.

(3) However, claimant signed his first hearing request on March 11, 2009, to protest the department's SLMB benefit termination as of February 2009.

(4) Claimant's hearing was not held until April 29, 2010.

(5) The department's witness testified at hearing claimant's companion MA case was erroneously closed in February 2009 but it was eventually reinstated retroactive to the month of erroneous closure.

(6) The department's witness testified credibly at hearing she has not been able to get claimant's SLMB benefits reinstated retroactive to the month of erroneous closure, despite her attempted contacts with the department's Medicare Buy-In Unit.

(7) Claimant filed a second hearing request on June 12, 2009, repeating his request for a hearing, because by that time, he had been deprived of the [REDACTED] monthly SMLB benefit for 4 months.

(8) At hearing, claimant testified credibly he did not receive SLMB coverage between February 2009 and October 2009, but SLMB was reinstated as of November 2009.

(9) The department's witness at hearing could not cite any policy reason or other supportable basis for deprivation of SLMB benefits to claimant during the above-referenced retroactive period.

(10) To date, she believes this is a departmental error which she has been unsuccessful in resolving despite her efforts, because claimant's qualifying factors have remained identical at all times relevant to this dispute.

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).

The department has failed to meet its burden of proof to show their denial of monthly SLMB benefits between February and October 2009 was correct. As such, the department's action cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's denial of claimant's ongoing SLMB coverage between February and October 2009 was erroneous.

As such, the department's denial action is REVERSED, and this case is returned to the local office to compel the department's Medicare Buy-In Unit to promptly issue a retroactive supplement for the erroneously lapsed period. **SO ORDERED.**

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 10, 2010

Date Mailed: May 11, 2010

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.

MBM/db

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