
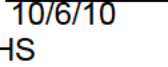


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2010-45966
Issue No: 2011
Case No: 
Load No: 
Hearing Date: 10/6/10
Bay 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 claimant's request for a hearing. After due notice, a telephone hearing was held on 10/6/10

ISSUE

Did the DHS correct the action for which claimant requested a hearing?

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 the negative action at issue herein, claimant was a QMB recipient.
2. On 11/21/09 the DHS issued a notice to claimant that her QMB was closing.
3. The Department stipulated on the 8/5/10 Hearing Summary that the notice for QMB closing was an error and the Department reversed the action. The Department's evidence indicates claimant has had QMB and MA since 7/1/09.
4. No negative action herein took place.
5. On 12/10/09 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).

Applicable Policy and Procedure is found the BEM and BAM Policy and Procedure DHS Manual Items. Specifically, the Medicare Savings program is found in BEM Items 165. Other general MA categories are found throughout BEM 100 through 172.

In this case, evidence on the record indicate that the Department erred in issuing a closure for QMB on 11/21/09. Evidence further indicates that the Department corrected its' action by deleting the negative action and reversing the action. Claimant has not lost any QMB benefits and has had active QMB and MA since 7/1/09. No negative action took place. Thus, while the Department erred in issuing the original negative action, it subsequently corrected the error and no benefits were lost. Thus, there is no hearable issue left to review.

It is noted at the Administrative Hearing claimant requested a review of benefits for months not covered by her hearing request. That is, the claimant requested a review regarding actions the Department took beyond the 90 day hearing window. The undersigned Administrative Law Judge has no jurisdiction to reach back beyond 90 days to review any actions by the Department. Having said that, the Department indicated at the Administrative Hearing that if there was an error, they are willing to take care of the error and cure it pending verification that an error actually took place.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department's action did not take place and the Department corrected its error. Claimant received QMB and MA at all relevant times applicable to the facts herein and thus, there was no action left to review.

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

2010-45966/JS

Date Signed: October 15, 2010

Date Mailed: October 18, 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 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/le

cc:

