

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201049493
Issue No.: 2017
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 10, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on November 10, 2010. The claimant appeared and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's application for the Medicaid Savings Plan?

FINDINGS OF FACT

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

1. The Claimant applied for the Medicare Savings Program (cost share) in May 2010 and the application was denied because the Claimant had to be enrolled in Medicare Part A Program. The claimant sought to have the Medicaid \$94 deductible Part B premium paid with assistance from the State of Michigan. Exhibit 1.
2. At the hearing, the Department representative testified that it denied the application because it had no verification that the claimant was enrolled in the Medicaid Part A program. Exhibit 1
3. At the hearing, the Claimant provided proof that he has been continuously enrolled in the Medicaid Part A program since 1994. The Claimant produced proof s of his Medicaid Card. This was acknowledged by the Department at the hearing.

4. The Claimant had previously had been enrolled in the Medicare Savings Program and had received assistance in 2007 and 2008.
5. On June 28, 2010, the Department issued a Notice of Case Action denying the Claimant's application determining that the claimant "does not meet the basic criteria for the Medicare Savings Program." The Department believed that the Claimant was not enrolled in Medicaid Part A program. Exhibits 1 and 4
6. The Department was uncertain when the Claimant's case was first closed in 2009 as it could not access its records.
7. In December 2010, the Claimant's unearned monthly income from Social Security was \$1021. 20. Exhibit 2 and Exhibit 3.
8. The Claimant is currently eligible for medical assistance and has a spenddown amount to be met monthly. The Claimant is a group of one member.
9. The Claimant made two requests for hearings on July 1, 2010 and July 15, 2010 protesting the denial of his application the Medicare cost savings/cost sharing program. The Department received the Claimant's hearing request on July 1, 2010 and July 15, 2010 respectively.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Bridges manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan State Legislature, they constitute the legal authority which DHS must follow. It is the manuals that must be considered to determine whether the Department adhered to the policy in denying the Claimant's application for the Medicare Savings Program.

BEM 165 discusses Financial Eligibility Factors:

MEDICARE SAVINGS PROGRAMS

FINANCIAL ELIGIBILITY FACTORS

Income Eligibility

Income eligibility exists when net income is within the limits in RFT 242 or 249. Income eligibility **cannot** be established with a patient-pay amount or by meeting a deductible. BEM 165, p. 5

In order to determine whether any deductible applied against the Claimant's RSDI income in 2010 BEM 541 must be consulted. The Claimant's monthly RSDI income is \$1,021.20 per month. BEM 541 contains all the allowable deductions. It provides for a "\$20 "disregard" given to all RSDI recipients, and, applying this in Claimant's case, this decreases his countable income to \$1,001.20. BEM 541 allows certain other deductions which do not apply to the Claimant. These deductions are court-ordered child support, blind and impairment-related work expenses, allocations to non-SSI-related children, earned income disregards, and guardianship/conservator expenses. BEM 541 does not list Medicare premiums as an allowable income deduction and thus the Claimant's countable income is \$1,001.20 per month for 2010.

RFT 242 must be consulted to determine if Claimant is within the countable income guidelines. RFT 242 provides that for a fiscal (family) group of one person, the Additional Low-Income Medicare Beneficiaries (ALMB or Q1) income limit is \$1,084-\$1,219. Based upon RFT 242 I find that the Claimant is eligible for the Medicare Savings Program based on his income. Apparently, the Department used the wrong countable income limit in making its determination. The Department used \$867 which only appears in RFT 242 for determining Ad Care income eligibility.

Based upon the foregoing analysis and law, the undersigned finds that the Department's decision to deny the claimant's Medicare Savings Plan application as of August 1, 2010 was in error and its decision is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's decision to deny the Claimant's Medicare Savings Plan application must be and is REVERSED.

Accordingly, the Department is ordered:

The Department is ordered to reinstate and reprocess the claimant's application for the Medicare Savings Plan retroactive to the date of application of May 27, 2010 and

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retroactively supplement the Claimant for any reimbursement of Medicaid Part B insurance premiums he is otherwise deemed eligible to receive.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/7/2010

Date Mailed: 12/7/2010

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 receipt date of the rehearing decision.

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