

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: 2010-17440

Issue No: 2017

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 22, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on December 16, 2009. After due notice, a telephone hearing was held on Thursday, July 22, 2010.

ISSUE

Did the Department of Human Services (Department) properly determine the Claimant's eligibility 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) On April 3, 2009, the Claimant applied for the Medicare Savings Program under the Specified Low-Income Medicare Beneficiaries (SLMB) category.

(2) On November 24, 2009, the Department approved the Claimant for the SLMB Medicare Savings Program effective November 1, 2009.

(3) The Department received the Claimant's request for a hearing on December 16, 2009, protesting the Department's delay in approving his application for the SLMB Medicare Savings Program.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Medicare Savings Programs are SSI-related MA categories. They are neither group one or group two. Bridges Eligibility Manual Item 165 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. SLBM coverage is available for retro MA months and later months. BEM 165, p. 3.

The SLMB program will pay for monthly Medicare Part B premiums. The Social Security Administration will refund a recipient for premiums deducted since the effective date of the SLMB program.

The State Office of Administrative Hearings and Rules (SOAHR) may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For the Food Assistance Program, the current level of benefits.
- Community spouse income allowance.
- Community spouse's income considered in determining the income allowance.
- Initial asset assessment for Medical Assistance.
- Determination of the couple's countable assets or protected spousal amount.
- Community spouse resource allowance. BAM 600.

In this case, the Claimant applied for the Medical Savings Program on April 3, 2009. Due to the Department's mishandling of his case, the Claimant's application for the SLMB Medicaid Savings program was not approved until November 1, 2009.

The Department testified that it is not possible to grant retroactive benefits for the Medical Savings Program and cited BEM Item 165, Page 3. This Administrative Law Judge

agrees that coverage is not available for past months or the processing month for Qualified Medicare Beneficiaries (QMB). In this case, the Claimant was approved for the SLMB program effective November 1, 2009. The Medical Savings Program under the SLBM category is available for retro MA months and later months. BEM 165, Page 3.

The Claimant's grievance is a hearable issue because it involves a delay of the determination of his eligibility for the Medical Savings Program beyond the standards of promptness. The Department failed to establish that the Claimant is not eligible to receive a refund for any Medicare Part B premiums deducted from his disability benefits prior to the approval of his approval date effective November 1, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did not act in accordance with policy in determining whether the Claimant is entitled to retroactive coverage for the Medical Savings Plan.

Accordingly, the Department's determination eligibility for retro coverage in the Medical Savings Plan is REVERSED, it is SO ORDERED. The Department SHALL:

1. Initiate a determination of the Claimant's eligibility for the Medical Savings Program from the date of his application on April 3, 2009.
2. Notify the Claimant of the Department's revised eligibility determination.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 13, 2010

Date Mailed: August 13, 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 60 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.

KS/vc

cc:

