

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-50677
Issue No.: 2017
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 29, 2010
DHS County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on November 29, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied Medicare Part B premium payments to Claimant through the Medical Assistance (MA or Medicaid) program?

FINDINGS OF FACT

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

1. Claimant is a recipient of U.S. Retirement and Survivors Disability Insurance (RSDI).
2. Claimant receives \$1,246.50 per month RSDI benefits.
3. On June 2, 2010, Claimant applied for the Medicare costsharing program of the DHS Medicaid program.
4. On June 15, 2010, DHS determined that Claimant's income was too high for him to receive MA costsharing of Medicare premiums, and denied Claimant's application.

5. On July 15, 2010, Claimant filed a notice of hearing request with DHS.

CONCLUSIONS OF LAW

MA was established by the Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. DHS administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The 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 to the manuals that I look now, in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

The three manual Items that I consider relevant here are BEM 165, "Medicare Savings Programs," BEM 541, "MA Income Deductions - SSI-Related Adults," and RFT 242, "AD-Care and Medicare Savings Program Income Limits," I refer first to the paragraph of BEM 165 which 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 (bold print in original).

I look next to see if there are any deductions allowable from Claimant's RSDI income, which is \$1,246.50 per month. BEM 541 contains all the allowable deductions. There is a \$20 "disregard" given to all RSDI recipients and, applying this in Claimant's case, this decreases his countable income to \$1,226.50. BEM 541 allows certain other deductions, which 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. I find and determine therefore that DHS may not subtract Claimant's Medicare premium from his countable income, and I find and decide that Claimant's countable income is \$1,226.50.

Looking next at RFT 242 to determine if Claimant is within the countable income guidelines, I see 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. I determine that Claimant is \$7.50 above the income limit required to receive costsharing premium assistance from DHS.

I therefore decide and conclude that DHS acted properly in this case. I find that DHS properly calculated that Claimant's income is higher than the allowable limit in order to receive MA costsharing assistance. DHS is AFFIRMED. DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS acted properly in denying Claimant costsharing of Medicare premiums through the MA program. DHS is AFFIRMED. DHS need take no further action in this case.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 30, 2010

Date Mailed: December 1, 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.

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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.

JL/pf

cc:

